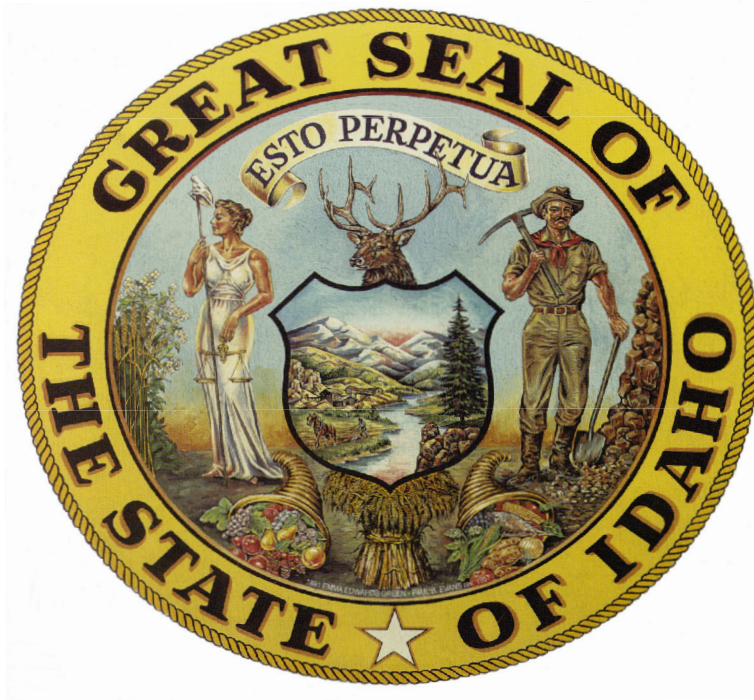


# IDAHO ADMINISTRATIVE BULLETIN

September 6, 2023 – Vol. 23-9

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



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# PREFACE

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

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

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

## CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN

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

## RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE

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

To determine if a particular rule remains in effect or whether any amendments have been made to the rule, refer to the **Cumulative Rulemaking Index**. Link to it on the Administrative Rules homepage at [adminrules.idaho.gov](http://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 YEAR 2023**

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23-2	February 2023	December 23, 2023	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
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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
24-1	January 2024	November 13, 2023	<b>**November 27, 2023</b>	January 3, 2024	January 24, 2024

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25-1	January 2025	November 15, 2024	<b>**November 29, 2024</b>	January 1, 2025	January 22, 2025

**\*Last day to submit a proposed rule for the rulemaking to remain on course for review by the upcoming legislature.**

**\*\*Last day to submit a pending rule to be reviewed by the upcoming legislature.**

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**THE OFFICE OF THE GOVERNOR**

**EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE**

**EXECUTIVE ORDER NO. 2023-03**

**IDAHO OUTDOOR RECREATION FUND ADVISORY COUNCIL**

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*WHEREAS, Idaho is experiencing a surge in outdoor recreation with historic numbers of users visiting State Parks, hiking, biking and riding trails, boating, using off-highway vehicles, and hunting and fishing on public and private lands; and*

*WHEREAS, the U.S. Bureau of Economic Analysis estimates outdoor recreation provides a \$2.8 billion annual boost to Idahos economy, supporting more than 37,000 jobs and fueling rural economies throughout the state; and*

*WHEREAS, this dramatic uptick in outdoor recreation creates opportunities and challenges as Idaho must contend with serving the needs of millions of new recreationists while also preserving and protecting the special places and natural features that make Idaho s outdoors great; and*

*WHEREAS, the State of Idaho recognizes the unintended impacts outdoor recreation can have on rural Idaho, lacking the infrastructure, resources, and revenue streams to support increased recreationists; and*

*WHEREAS, continued investment, support and coordination is key to the successful and responsible growth of outdoor recreation in Idaho.*

*NOW, THEREFORE, I, Brad Little, Governor of the State of Idaho, pursuant to the Constitution and laws of Idaho, hereby recognize the Idaho Outdoor Recreation Fund Advisory Council as a group to expand access and opportunities on state and other public lands in Idaho.*

- 1. The Council will advise the Governor and the Idaho Parks and Recreation Board on projects and policies that support expanded access to outdoor recreation opportunities in Idaho.
  - a. The Council will recommend projects that expand opportunities for camping, fishing, hunting, accessing trails and other outdoor pursuits by utilizing \$5 million from Senate Bill 1196 in the Fiscal Year 2024 Idaho Department of Parks and Recreation Budget for inter-agency collaborative projects.*
  - b. Specifically, the Idaho Department of Parks and Recreation, Idaho Department of Fish and Game and the Idaho Department of Lands will work together to propose projects, manage under-utilized resources to enhance recreational access, and monetize outdoor recreation for long-term sustainability.**
- 2. The duties of the Council are advisory to the Governor and the Idaho Parks and Recreation Board to develop additive outdoor recreation access and capacity in the State of Idaho. Final action on the proposals accepted by the Governor shall be presented to the Idaho Parks and Recreation Board for review and approval.*
- 3. The Council will focus on statewide outreach and educational efforts to create a better understanding of the importance of where outdoor recreation opportunities are most needed, geographically.*
- 4. The Idaho Parks and Recreation Board shall set forth criteria for projects considered by the Council.*
- 5. The following thirteen (13) members are hereby appointed to the Council and will serve at the pleasure of the Governor:*

- a. *Director of the Idaho Department of Parks and Recreation or their designee*
  - b. *Director of the Idaho Department of Fish and Game or their designee*
  - c. *Director of the Idaho Department of Lands or their designee*
  - d. *Representative of the Idaho State Senate*
  - e. *Representative of the Idaho State House of Representatives*
  - f. *Representative of the Idaho Rangeland Resources Commission*
  - g. *Representative of rural Idaho communities*
  - h. *Representative from the recreation community*
  - i. *Representative from the sportsmen community*
  - j. *Representative from the agricultural community*
  - k. *Representative from the forestry or mining community*
  - l. *Representative from the business community*
  - m. *Representative from the conservation community*
- i. *The Governor will appoint one (1) non-agency Council member to serve as Chairman.*
  - ii. *Non-agency members will be appointed by the Governor and serve at the pleasure of the Governor.*



*IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho on this 7th day of February in the year of our Lord two thousand and twenty-three.*

**BRAD LITTLE**  
**GOVERNOR**

**PHIL MCGRANE**  
**SECRETARY OF STATE**

## IDAPA 11 – IDAHO STATE POLICE

### 11.07.01 – RULES GOVERNING MOTOR VEHICLES – GENERAL RULES

#### DOCKET NO. 11-0701-2301 (ZBR CHAPTER REWRITE)

#### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-5220(1) and 67-5220(2), 67-2907, and 49-901 Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency no later than September 20, 2023.

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

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

In support of the Governor’s Red Tape Reduction Initiative and in accordance with the [Zero-Based Regulation E.O. 2020-01](#), the goal of these rulemakings is to make changes and modifications that remove obsolete language, eliminate unnecessary restrictions, and provide overall clarity.

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

Not Applicable

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

There are no fees associated with this proposed rule making.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 5, 2023 Idaho Administrative Bulletin, [Volume 23-7, Page 30-31](#).

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

Rules 20, 30, and 40 incorporate by reference various state and national safety codes and federal regulations. Each applicable rule identifies the issuing entity for each code or regulation and indicates where the incorporated materials may be obtained. Incorporated materials are also available for inspection and copying at the Headquarters Office of the Idaho State Police, 700 S. Stratford Drive, Meridian, ID 83642. The following codes and standards are incorporated:

1. Society of Automotive Engineers (SAE). The SAE Ground Vehicle Lighting Standards Manual, 2009 edition, and SAE standards J586, J588, and J639 are published by the Society of Automotive Engineers and are available from SAE World Headquarters, 400 Commonwealth Drive, Warrendale, PA 15096-0001 and may be ordered by calling 1-888-875-3976 or on the worldwide web at <https://www.sae.org/publications> <http://store.sae.org/>.
2. Idaho State Department of Education, Standards for Idaho School Buses and Operations Manual. The Standards for Idaho School Buses and Operations Manual, effective July 1, 2018, is published by the Idaho Department of Education, 650 West State Street, P.O. Box 83720, Boise, ID 83720-0027 and may be ordered by calling 1-208-332-6800 or downloaded from the worldwide web at <http://www.sde.idaho.gov/student-transportation/files/forms-lists/regulations/SISBO-Manual-2018.pdf>.

3. Federal Regulations – 49 C.F.R. Parts 392, 393, and 571 (June 3, 2019). These regulations are found in the Code of Federal Regulations, available from the U.S. Government Publishing Office, Superintendent of Documents, Attn: New Orders, PO Box 37954, Pittsburgh, PA 15250-7954. The incorporated parts are also available on the worldwide web at <https://www.ecfr.gov/current/title-49>.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Captain Matt Smith, (208) 884-7022, [matt.smith@isp.idaho.gov](mailto:matt.smith@isp.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2023.

DATED this 24th day of July, 2023.

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

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 11-0701-2301**  
**(ZBR Chapter Rewrite)**

**11.07.01 – RULES GOVERNING MOTOR VEHICLES – GENERAL RULES**

**000. LEGAL AUTHORITY.**

These rules adopting national safety codes and standards are promulgated pursuant to the authority granted to the Idaho State Police pursuant to Section 67- 2901 and 49-901, Idaho Code. ( )

**001. SCOPE.**

All owners and operators of motor vehicles that operate on the highways under the jurisdiction of the Idaho State Police are required to comply with these rules to the extent the rules are applicable. ( )

**002. DEFINITIONS.**

The definitions in Title 49, Chapter 1, Idaho Code apply to this chapter. ( )

**003. INCORPORATED BY REFERENCE.**

Rules 20, 30, and 40 incorporate by reference various state and national safety codes and federal regulations. Each applicable rule identifies the issuing entity for each code or regulation and indicates where the incorporated materials may be obtained. Incorporated materials are also available for inspection and copying at the Headquarters Office of the Idaho State Police, 700 S. Stratford Drive, Meridian, ID 83642. The following codes and standards are incorporated: (3-23-22)( )

**01. Society of Automotive Engineers (SAE).** The SAE Ground Vehicle Lighting Standards Manual, 2009 edition, and SAE standards J586, J588, and J639 are published by the Society of Automotive Engineers and are available from SAE World Headquarters, 400 Commonwealth Drive, Warrendale, PA 15096-0001 and may be ordered by calling 1-~~877-606-7323~~888-875-3976 or on the worldwide web at <http://store.sae.org>/<https://www.sae.org/publications> <http://store.sae.org/>. (3-23-22)( )



**02. Idaho State Department of Education, Standards for Idaho School Buses and Operations Manual.** The Standards for Idaho School Buses and Operations Manual, effective July 1, 2018, is published by the Idaho Department of Education, 650 West State Street, P.O. Box 83720, Boise, ID 83720-0027 and may be ordered by calling 1-208-332-6800 or downloaded from the worldwide web at <http://www.sde.idaho.gov/student-transportation/files/forms-lists/regulations/SISBO-Manual-2018.pdf>. ( )

**03. Federal Regulations – 49 C.F.R. Parts 392, 393, and 571 (June 3, 2019).** These regulations are found in the Code of Federal Regulations, available from the U.S. Government ~~Printing~~ **Publishing** Office, Superintendent of Documents, Attn: New Orders, PO Box 37954, Pittsburgh, PA 15250-7954. The incorporated parts are also available on the worldwide web at ~~<https://www.ecfr.gov/cgi-bin/ECFR?page=browse>~~ <https://www.ecfr.gov/current/title-49>. (3-23-22)( )

**004. -- 019. (RESERVED)**

**020. SOCIETY OF AUTOMOTIVE ENGINEERS (SAE).**

In accordance with the SAE Ground Vehicle Lighting Standards Manual, and SAE standards J586, J588, and J639, all owners and operators of motor vehicles that operate on the highways under the jurisdiction of the Idaho State Police are required to comply with the applicable provisions incorporated by reference in Subsection 0083.01. (3-23-22)( )

**01. Standards and Specifications for Lighting Devices.** Pursuant to Section 49-901(1), Idaho Code, the standards and specifications set forth by the Society of American Engineers in the SAE Ground Vehicle Lighting Standards Manual, as incorporated by reference in Subsection 0083.01. (3-23-22)( )

**02. Standards for Rear Mounted Acceleration and Deceleration Lighting Systems (Use Optional).** The current standards found in “Supplemental High Mounted Stop and Rear Turn Signal Lamps for Use on Vehicles Less Than 2032 MM Overall Width -- SAE J586 and J588,” is found in Section 49-921, Idaho Code, as incorporated by reference in Subsection 008.01. ( )

**03. Safety Practices and Standards for Automotive Air Conditioning Devices, Standards and Specifications.** Pursuant to Section 49-901(7), Idaho Code, the current standards set forth in “Safety Practices For Mechanical Vapor Compression Refrigeration Equipment of Systems Used to Cool Passenger Compartment of Motor Vehicles -- SAE J639,” as incorporated by reference in Subsection 0083.01. (3-23-22)( )

**021. -- 029. (RESERVED)**

**030. IDAHO STATE DEPARTMENT OF EDUCATION, STANDARDS FOR IDAHO SCHOOL BUSES AND OPERATIONS MANUAL.**

In accordance with the “Standards for Idaho School Buses and Operations” manual, all owners and operators of motor vehicles that operate on the highways under the jurisdiction of the Idaho State Police are required to comply with the applicable standards incorporated by reference in Subsection 0063.02. (3-23-22)( )

**01. General Rules.** Pursuant to Section 49-901(8), Idaho Code, the standards found in the “Standards for Idaho School Buses and Operations” manual approved by the Idaho State Department of Education incorporated by reference in Subsection 0063.02. (3-23-22)( )

**02. Lighting Equipment.** Pursuant to Section 49-901(2), Idaho Code, the standards found in the “Standards for Idaho School Buses and Operations” manual approved by the Idaho State Department of Education incorporated by reference in Subsection 0063.02. (3-23-22)( )

**031. -- 039. (RESERVED)**

**040. FEDERAL REGULATIONS - 49 C.F.R. PARTS 392, 393, AND 571.**

In accordance with Title 49 of the Code of Federal Regulations, Parts 392, 393, and 571, all owners and operators of motor vehicles that operate on the highways under the jurisdiction of the Idaho State Police are required to comply with the applicable Parts found in Title 49 of the Code of Federal Regulations. ( )

**01. Certain Vehicles Required to Stop at All Railroad Crossings.** Pursuant to Section 49-648, Idaho Code, the Director hereby incorporates by reference the requirements found in ~~Title 49 (49 C.F.R.) of the Code of Federal Regulations (Federal Motor Carrier Safety Regulations)~~ Part 392, Subpart B, Section 392.10, as if set forth herein in full. (3-23-22)( )

**02. Devices With Self Contained Energy Sources.** Pursuant to Section 49-952, Idaho Code, the Director hereby incorporates by reference the standards and specifications with regard to Requirements for fuses and liquid burning flares found in 49 C.F.R., ~~Part 393, Subpart H, Section~~ 393.95. Warning devices with self-contained energy sources permissible, under this chapter are limited to liquid burning emergency flares, and fuses. (3-23-22)( )

**03. Modulating Headlights for Motorcycles.** Pursuant to Section 49-925, 49-901(3), 49-901(4), Idaho Code, the Director hereby approves modulating headlights for use on motorcycles. Such headlights shall conform to the standards and specifications with regard to modulating headlights found in 49 C.F.R. Section 571.108, Standard 108, ~~S7.9.4 S10.17.5.1~~, which is hereby adopted by reference as if set forth herein in full. (3-23-22)( )

**04. Standards for Safety Helmets.** Pursuant to Section 49-666, Idaho Code, the Director hereby incorporates by reference the standards found in 49 C.F.R. Section 571.218, ~~Standard No. 218~~, as if set forth herein in full. (3-23-22)( )

**05. Standards for Devices Without Self Contained Energy Sources.** Pursuant to Section 49-952, Idaho Code, the Director hereby incorporates by reference the standards and specifications with regard to reflex reflective and fluorescent material warning devices found in 49 C.F.R. Section 571.125, ~~Standard 125~~, as if set forth herein in full. (3-23-22)( )

**041. -- 999. (RESERVED)**

## IDAPA 11 – IDAHO STATE POLICE

### 11.07.03 – RULES GOVERNING EMERGENCY VEHICLES/AUTHORIZED EMERGENCY VEHICLES

#### DOCKET NO. 11-0703-2301 (ZBR CHAPTER REWRITE)

#### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 67-5220(1)M 67-5220(2) and 67-2901, Idaho Code.

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

Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency no later than September 20, 2023.

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

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

In support of the Governor's Red Tape Reduction Initiative and in accordance with the [Zero-Based Regulation E.O. 2020-01](#), the goal of these rulemakings is to make changes and modifications that remove obsolete language, eliminate unnecessary restrictions, and provide overall clarity.

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

There are no fees associated with this rulemaking.

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

There is no fiscal impact as a result of this proposed rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 5, 2023, Idaho Administrative Bulletin, [Volume 23-7, Pages 23-33](#).

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: Not applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Captain Matt Smith, (208) 884-7022, [matt.smith@isp.idaho.gov](mailto:matt.smith@isp.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2023.

DATED this 24th day of July, 2023.

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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 11-0703-2301  
(ZBR Chapter Rewrite)

11.07.03 – RULES GOVERNING EMERGENCY VEHICLES/AUTHORIZED EMERGENCY VEHICLES

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to the authority granted to the Idaho State Police pursuant to Section 67-2901(4), Idaho Code. (3-23-22)( )

001. SCOPE.

The rules apply to emergency vehicles/authorized emergency vehicles under the jurisdiction of the Idaho State Police. They do not pertain to emergency vehicles as defined by Section 49-123, Idaho Code. (3-23-22)( )

002. -- 009. (RESERVED)

010. DEFINITIONS.

~~Unless specifically defined in this chapter,~~In addition to the definitions in Title 49, Chapter 1, Idaho Code, the following definition applies to this chapter. (3-23-22)( )

01. **Limited Authorized Vehicle.** A vehicle to which a limited authorization is issued by the Director for limited emergency uses as defined by the Director upon agreement with an applicant under terms specified therein. ( )

~~02. **Driver.** Every person who is in actual physical control of an authorized emergency vehicle.~~ (3-23-22)

011. PURPOSE.

~~01. **General.** The purpose of this chapter is to specify a procedure to be followed to obtain approval for authorized emergency vehicles pursuant to Section 49-218, Idaho Code. Pursuant to Section 49-218, Idaho Code, the Director may designate any particular vehicle as an authorized emergency vehicle upon a finding that designation of that vehicle is necessary to the preservation of life or property or to the execution of an emergency governmental function.~~ (3-23-22)( )

~~02. **Emergency Vehicles.** This chapter will not pertain to emergency vehicles as defined by Section 49-123, Idaho Code, i.e., vehicles operated by any fire department or law enforcement agency of the state of Idaho or political subdivision thereof, and ambulances of any public utility or public service corporation.~~ (3-23-22)( )

012. AUTHORIZATION REQUIREMENTS.

01. **General.** Any person, ~~firm,~~ corporation, or municipal corporation, desiring to have a vehicle registered as an authorized emergency vehicle, pursuant to Section 49-218, Idaho Code, must apply for authorization by submitting a request to the Director ~~on forms provided by the department and~~ that include the following: (3-23-22)( )

a. ~~Provide a~~ description of: (3-23-22)( )

i. The specific geographic area ~~in~~ and purpose(s) for which the vehicle will be used ~~as an authorized emergency vehicle.~~ (3-23-22)( )

ii. ~~The specific purposes for which the vehicle will be used as an emergency vehicle.~~ (3-23-22)

- iii. The emergency vehicle listing year, make, model, vehicle identification number and license plate number; ~~and~~ (3-23-22)( )
- ~~iv.~~ ~~ii.~~ The ~~emergency~~ lighting equipment and horns or warning devices to be used. ~~on the emergency vehicle.~~ (3-23-22)( )
- ~~v.~~ ~~The emergency horns or warning devices to be used on the emergency vehicle.~~ (3-23-22)
- b. ~~Provide w~~Written documentation indicating the ~~emergency~~ vehicle will have radio communications between a central dispatch location and, when applicable, between other emergency vehicles. (3-23-22)( )
- c. ~~Maintain a~~Current certificate ~~or of~~ liability and property damage insurance executed by an insurer authorized to transact insurance ~~business with the state and have a copy on file in the Director's office and update it upon each renewal period;~~ with notice of renewal being filed with the Director. The certificate must show expiration date, liability (single event and aggregate) and property damage coverage. The certificate of liability and property damage insurance must be carried in the limited authorized emergency vehicle and displayed upon the request of any law enforcement officer. (3-23-22)( )
- d. ~~Provide a~~An explanation of the nature and the scope of the duties, responsibilities and the authority of the vehicle driver which necessitates the vehicle's registration as an authorized emergency vehicle. (3-23-22)( )
- e. ~~Provide a~~A list of the names, addresses, and birthdates, ~~social security numbers~~ of all persons who use the vehicle as an authorized emergency vehicle. (3-23-22)( )
- f. ~~Provide w~~Written documentation as to the emergency vehicle driving courses and hours of instruction completed by each driver. (3-23-22)( )
- g. ~~Provide a~~A recommendation by the chief law enforcement officer or fire chief, if the vehicle is to be used for firefighting purposes, of each jurisdiction in which the vehicle is to be used ~~as an authorized emergency vehicle~~ stating that a need exists in ~~such said~~ jurisdiction for the vehicle to be used as described in the application. ~~The Director may issue emergency vehicle authorization to vehicles which operate throughout the state.~~ (3-23-22)( )

**013. LIMITED AUTHORIZED EMERGENCY VEHICLE.**

- 01. General Application. Any person, firm, corporation, or municipal corporation, desiring to have a vehicle registered as a limited authorized emergency vehicle must apply for authorization to the Director on forms provided by the department that provides ~~the following information:~~ (3-23-22)( )
  - a. A description of the emergency vehicle ~~listing including the~~ year, make, model, vehicle identification number and license plate number. (3-23-22)( )
  - b. A description of the emergency lighting equipment to be used on the emergency vehicle. in conformance with Section 49-623(3), Idaho Code, and Section 49-910A, Idaho Code. (3-23-22)( )
- 02. Requirements for Driver. Each driver of an authorized emergency vehicle must: (3-23-22)( )
  - a. Be eighteen (18) years of age or older; and have valid driving privileges; and (3-23-22)( )
  - b. Not have been convicted in any court within three (3) years of an offense of driving under the influence ~~of alcohol, drugs, or any other intoxicating substance,~~ reckless driving, failure to stop or report an accident, or any other conviction which the Director may deem a disqualifier ~~to drive an authorized emergency vehicle.~~ (3-23-22)( )
  - e. ~~Not have had driving privileges suspended for any reason within the last three (3) years.~~ (3-23-22)

**014. AUTHORIZATION LIMITATIONS.**

**01. Durations.** The authorization provided by the Director will be valid for one (1) year. ~~The application for continued emergency vehicle authorization or limited emergency vehicle authorization must be, will expire on June 30 of each subsequent year, and may be~~ renewed prior to the expiration date. (3-23-22)( )

**02. Restrictions.** An authorized emergency vehicle may ~~not~~ be used ~~except as follows~~ for the purposes set forth in the application: (3-23-22)( )

- a. ~~Only b~~By the driver(s) named on the ~~original or amended~~ application. (3-23-22)( )
- b. ~~Only w~~With the equipment described in the ~~original or amended~~ application. (3-23-22)( )
- c. ~~Only w~~Within the geographical area described in the ~~original or amended~~ application. (3-23-22)( )
- ~~d. Only for the purposes set forth in the original or amended application. (3-23-22)~~

**03. Limited Restriction.** A limited authorized emergency vehicle may not be used ~~except as follows:~~ (3-23-22)( )

a. Where a lane of traffic is obstructed or at the discretion of a peace officer, it may display a red, flashing light. ( )

b. To gain access to accident or emergency scenes, it may use interstate system emergency crossovers, provided such usage is done in a safe manner. ( )

**e04. Revocation.** It is unlawful and cause for immediate revocation of the limited authorization if red lights are used while traveling to or from an incident or an emergency or for any reason not described herein. (3-23-22)( )

**015. -- 020. (RESERVED)**

**021. EQUIPMENT REQUIRED.**

~~01. Authority.~~ Pursuant to ~~Section 49-901, Idaho Code,~~ the Director has authority to approve and disapprove warning lighting devices on emergency vehicles and to issue and enforce regulations for such emergency warning lighting devices. (3-23-22)

~~02. Equipment.~~ Every authorized emergency vehicle must be equipped in conformance with Section 49-623(3), Idaho Code, with at least one (1) red light visible in a three hundred and sixty (360) degree arc at a distance of one thousand feet (1000') under normal atmospheric conditions and/or an audible signaling device having a decibel rating of at least one hundred (100) decibels at a distance of ten feet (10'). (3-23-22)

**022.1. PROCEDURE.**

**01. Approval.** If the Director approves the application, he may issue a certificate of approval which is valid for thirty (30) days, during which time the emergency equipment may be installed. After installation of the emergency equipment, the applicant must bring the vehicle to a district office of the Idaho State Police to be examined to determine if the equipment is of an approved type and is properly mounted. An Idaho State Police ~~officer~~ trooper must certify the results of this examination on a form prescribed and provided by the department, and the applicant must file the form with the Idaho State Police. (3-23-22)( )

~~02. Carried.~~ The certificate of approval, and when issued the agreement or copies thereof, including all endorsements for changes of conditions, must be carried in the authorized emergency vehicle or limited authorized emergency vehicle at all times and be displayed upon request of any law enforcement officer. (3-23-22)

**032.** **Violation.** Violation of any of the Rules is grounds for suspension or revocation of the authorized emergency vehicle agreement or limited authorized emergency vehicle agreement without prior written notice or opportunity for hearing. ( )

**043.** **Authorization.** Any authorization may be terminated at any time without cause or prior written notice or opportunity for hearing by the Director or his designated representative. ( )

**054.** **Copy.** A copy of the authorized emergency vehicle certificate approved by the Director or limited authorization certificate approved by the Director must be carried in each authorized vehicle and shown to any peace officer upon request. ( )

**06.** ~~Valid. Any renewals or new applications expire on June 30 of each subsequent year following.~~  
(3-23-22)

**0232.** -- 999. (RESERVED)

**IDAPA 11 – IDAHO STATE POLICE**

**11.10.01 – RULES GOVERNING IDAHO PUBLIC SAFETY AND SECURITY INFORMATION SYSTEM**

**DOCKET NO. 11-1001-2301 (FEE RULE)**

**NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is October 1, 2023.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 19-5201, 19-5202, 19-5203, and 19-5204 Idaho Code.

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

Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 20, 2023.

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

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

This rulemaking is being done to ensure the Idaho Public Safety and Information Security (ILETS), can continue to provide the critical officer safety and other information used by law enforcement agencies across Idaho. The system is a vital link for law enforcement and provides 24/7 access to information that helps keep communities safe. The proposed changes will ensure adequate funding to support the continued stable operation of the ILETS System.

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

Necessary to protect the public health, safety, or welfare.

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

Idaho Code 19-5202 authorizes the access chargers for users of the ILETS system. The following is the fee schedule that will be effective October 1, 2023.

Percentage of Total ILETS Message Traffic	Annual Usage Fee Effective October 1, <del>2014</del> 2023
0 - .25 %	<del>\$1,875</del> 3,750
.26 - .50 %	<del>\$3,750</del> 7,500
.51 - .75 %	<del>\$7,500</del> 15,000
.76 - 1.0 %	<del>\$15,000</del> 24,000
1.01 - 1.50 %	<del>\$22,500</del> 32,500
1.51 – 2.0 %	<del>\$33,750</del> 48,750
2.01 – 5.0 %	<del>\$50,625</del> 69,625
> 5.01 %	<del>\$75,939</del> 98,939



**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 proposed rulemaking will not have an impact on state funds.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because negotiated rulemaking was conducted with all stakeholders prior to the last legislative session. All stakeholders agreed the increases were necessary to ensure continue operation.

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

This rulemaking does not amend any documents incorporated by reference.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Bureau Chief, Leila McNeill, (208) 884-7136, Email: [Leila.Mcneill@isp.idaho.gov](mailto:Leila.Mcneill@isp.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27th, 2023.

DATED this 31st day of July, 2023.

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

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT  
OF FEE DOCKET NO. 11-1001-2301  
(Only Those Sections With Amendments Are Shown.)**

**018. USER ACCESS FEES.**

**01. Payment of Fees Required.** Any agency that has signed a user agreement with ILETS to have direct terminal or system access to the network must pay access and usage fees as provided in Section 018. (3-23-22)

**02. ILETS Network User Access Fees.** The access fees approved by the Board and to be collected quarterly in advance by the department are as follows: (3-23-22)

**a.** An agency at the county or municipal level pays an annual access fee of five thousand, four hundred and twenty-five dollars (\$5,425). (3-23-22)

**b.** An agency at the state, federal, or tribal level pays an annual access fee of nine thousand dollars (\$9,000). (3-23-22)

**03. Usage Fee.** Any agency that has signed a user agreement with ILETS to have direct terminal or system access to the ILETS network pays quarterly a usage fee based on that agency's percentage of total annual messages sent and received by user agencies through the ILETS message switcher. The total percentage for an agency

includes the message traffic generated by any other agency authorized to access ILETS through that agency's direct terminal or system access. (3-23-22)

- a. The usage fee is assessed according to the following schedule:

<b>Percentage of Total ILETS Message Traffic</b>	<b>Annual Usage Fee Effective October 1, <del>2014</del>2023</b>
0 - .25 %	<del>\$1,875</del> 3,750
.26 - .50 %	<del>\$3,750</del> 7,500
.51 - .75 %	<del>\$7,500</del> 15,000
.76 - 1.0 %	<del>\$15,000</del> 24,000
1.01 - 1.50 %	<del>\$22,500</del> 32,500
1.51 – 2.0 %	<del>\$33,750</del> 48,750
2.01 – 5.0 %	<del>\$50,625</del> 69,625
> 5.01 %	<del>\$75,939</del> 98,939

(~~3-23-22~~)(10-1-23)T

b. The department will conduct audits of ILETS message switcher traffic for even-numbered years to determine an agency's annual usage fee. This fee is effective for two (2) years and begins with the quarterly statement beginning October 1 of odd-numbered years. (3-23-22)

c. If an agency discontinues direct terminal or system access to ILETS and acquires authorized access through another agency, the usage fee for the agency maintaining direct access will be adjusted to reflect the combined historical usage. (3-23-22)

d. A new agency approved for direct ILETS access that does not have historical usage will be assessed an interim usage fee by the department pending the next audit of ILETS message traffic. The department sets an interim fee based on the agency's similarities to existing agencies with direct terminal or system access. An agency may appeal the interim usage fee set by the department to the ILETS Board. (3-23-22)

e. As operator of ILETS, the department, in lieu of payment of fees, provides direct and in-kind support of network operations. The Board reviews biennially the proportion of that support to the overall operating cost of the system. (3-23-22)

**04. Billing and Payment.** The department mails billing statements quarterly to all agencies with direct terminal or system access to ILETS. Payment of the fees is due by the first day of the month of each quarter (October 1, January 1, April 1, and July 1), unless it is a Saturday, a Sunday, or a legal holiday, in which event the payment is due on the first successive business day. (3-23-22)

**05. Sanctions for Delinquency.** Any user agency that becomes delinquent in payment of assessed fees is subject to sanctions under Section 028. (3-23-22)

**IDAPA 11 – IDAHO STATE POLICE**  
**11.13.01 – THE MOTOR CARRIER RULES**  
**DOCKET NO. 11-1301-2301 (ZBR CHAPTER REWRITE)**  
**NOTICE OF RULEMAKING – PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 67-5220(1) AND 67-5220(2), Idaho Code, and 67-2901A.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency no later than September 20, 2023.

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

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

In support of the Governor’s Red Tape Reduction Initiative and in accordance with the [Zero-Based Regulation E.O. 2020-01](#), the goal of these rulemakings is to make changes and modifications that remove obsolete language, eliminate unnecessary restrictions, and provide overall clarity.

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

Not applicable.

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

There is no fiscal impact in associated with this rule making.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 5, 2023, Idaho Administrative Bulletin, [Volume 23-7 page 34](#) and public meetings were held as scheduled.

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

- 49 CFR subtitle B Chapter III, subchapter B- Federal Motor Carrier Safety Regulations; and 49 CFR subtitle B, chapter I, Subchapter C-Hazardous Materials Regulations.
- 40 CFR Part 262 and 49 CFR, Subtitle B, Chapter I, Parts 107, 171, 172, 173, 177, 178 and 180.
- 40 CFR 262: eCFR :: 40 CFR Part 262—Standards Applicable to Generators of Hazardous Waste
- 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180: eCFR: 49 Chapter I – Pipeline and Hazardous Materials Safety Administration, Department of Transportation.
- Carrier Safety Requirements – 49 CFR Parts 356, Subtitle B, Chapter III, Subchapter B, Sections 365, 380, 382, 383, 385, 386, 387, 388 and 390 through 399.
- eCFR :: 49 CFR Chapter III Subchapter B –Federal Motor Carrier Safety Regulations.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Captain Shawn Staley, (208) 884-7222, Email [shawn.staley@isp.idaho.gov](mailto:shawn.staley@isp.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2023.

DATED this 21st day of July, 2023.

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

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 11-1301-2301  
(ZBR Chapter Rewrite)**

**11.13.01 – THE MOTOR CARRIER RULES**

**000. LEGAL AUTHORITY.**

~~These rules are promulgated pursuant to the authority granted to the Idaho State Police pursuant to~~ Section 67-2901A, Idaho Code. (3-23-22)( )

**001. SCOPE.**

These rules apply to intrastate, and foreign motor carriers ~~under the jurisdiction of the Idaho State Police and, when provided in the rule, to interstate or foreign carriers~~ providing transportation of persons or property over Idaho highways ~~of the state of Idaho~~ by motor vehicles in the furtherance of their business or for hire. (3-23-22)( )

**002. INCORPORATION BY REFERENCE AND FEDERAL WAIVER.**

~~In accordance with Section 67-5229, Idaho Code, the following sections of the Code of Federal Regulations, specifically 49 CFR, and 40 CFR are herein incorporated by reference:~~ Amendments to the annual volumes are published in the Federal Register, pending their incorporation in the next annual volumes. Whenever a federal regulation is adopted by reference in these rules, subsequent recompilations are also adopted by reference, but subsequent amendments are not. (3-23-22)( )

**01. Safety Fitness Procedures ~~(See Section 012).~~** Adoption of Federal Regulations, 49 CFR subtitle B, chapter III, subchapter B – Federal Motor Carrier Safety Regulations; and 49 CFR subtitle B, chapter I, subchapter C – Hazardous Materials Regulations. ~~Amendments to the annual volumes are published in the Federal Register, pending their incorporation in the next annual volumes. Whenever a federal regulation is adopted by reference in these rules, subsequent recompilations are also adopted by reference, but subsequent amendments are not.~~ (3-23-22)( )

**a.** 49 CFR, Subtitle B, Chapter III, Subchapter B: eCFR :: 49 CFR Chapter III Subchapter B -- Federal Motor Carrier Safety Regulations. ( )

**b.** 49 CFR, Subtitle B, Chapter I, Subchapter C: eCFR :: 49 CFR Chapter I Subchapter C -- Hazardous Materials Regulations. ( )

**02. Transportation of Hazardous Materials, Substances, and Wastes ~~(See Section 018).~~** Adoption of Federal Regulations, 40 CFR Part 262 and 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 are hereby adopted by reference. ~~All interstate and foreign carriers and all intrastate carriers subject to the safety authority of the Idaho State Police while operating in Idaho that transport hazardous materials, substances or wastes listed in, defined by or regulated by 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 must comply with 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 applicable to motor carriers and their shippers, and the laws and rules of the state of Idaho. Whenever any of these federal regulations exempt intrastate carriers from any of their requirements, Section 018 removes that exemption and subjects intrastate carriers to the same requirements. The Department asserts its authority under Section 018, to the maximum extent allowed by Section 67-2901A, Idaho Code, Public Laws 89-670~~

~~and 89-170 (see 49 U.S.C. 502(e)(3)), 49 CFR Part 388.~~

~~(3-23-22)( )~~

~~a. Version of Federal Regulations Adopted. Per Section 49-2212, Idaho Code, the federal regulations adopted by reference in Section 018 of these rules, are those contained in the compilations of 40 CFR Part 262 published in the Code of Federal Regulations volume dated July 1, 1998, and as subsequently recompiled, and those contained in the compilations of 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 published in the Code of Federal Regulations volume dated October 1, 1998, and as subsequently recompiled, and all amendments to these rules appearing in the Federal Registers. Amendments to the annual volumes are published in the Federal Register pending their incorporation in the next annual volumes.~~

~~(3-23-22)~~

~~a. 40 CFR Part 262 and 49 CFR, Subtitle B, Chapter I, Parts 107, 171, 172, 173, 177, 178, and 180.~~

~~( )~~

~~b. 40 CFR 262: eCFR :: 40 CFR Part 262 -- Standards Applicable to Generators of Hazardous Waste.~~

~~( )~~

~~c. 49 CFR Parts 107, 171, 172, 173, 177, 178, and 180: eCFR : 49 CFR Chapter I -- Pipeline and Hazardous Materials Safety Administration, Department of Transportation.~~

~~( )~~

~~03. Exemptions 1. Whenever any of these federal regulations would otherwise exempt intrastate carriers from any of their requirements, the exemption does not apply to intrastate carriers who will remain subject to the same requirements.~~

~~( )~~

~~034. Carrier Safety Requirements (See Rule 19). Adoption of Federal Regulations 49 CFR Parts 356, Subtitle B, Chapter III, Subchapter B, Sections 365, 380, 382, 383, 385, 386, 387, 388 and 390 through 399 are hereby adopted by reference. Whenever any one (1) of these federal regulations (except Section 391.11(b)(1)) exempts intrastate carriers from any of their requirements, the rule at Section 019, removes that exemption and subjects the intrastate carrier to the same requirements. The Department asserts its authority under Section 019 of these rules to the maximum extent allowed by Section 67-2901A, Idaho Code, Public Laws 89-679 and 89-170 (see 49 U.S.C. 502(e)(3)), 49 CFR Part 388.~~

~~(3-23-22)( )~~

~~a. Version of Federal Regulations Adopted. The federal regulations adopted by reference in Section 019 of these rules, are those contained in the compilation of 49 CFR Parts 356, 365, 380, 382, 383, 385, 386, 387, 388, 390 through 399 published in the Code of Federal Regulations volumes dated October 15, 2020, and as subsequently recompiled, and all amendments to these rules appearing in the Federal Registers. Amendments to the annual volumes are published in the Federal Register pending their incorporation in the next annual volumes.~~

~~(3-23-22)~~

~~a. Adopted codes available at: eCFR :: 49 CFR Chapter III Subchapter -- Federal Motor Carrier Safety Regulations.~~

~~( )~~

~~05. Exemptions 2. Whenever these federal regulations (except Section 391.11(b)(1)) would otherwise exempt intrastate carriers from any of their requirements, the exemption does not apply to intrastate carriers who will remain subject to the same requirements.~~

~~( )~~

~~04. Availability of Incorporated Documents. The 49 CFRs can be found on the Federal Motor Carrier Safety Administration website at www.fmcsa.dot.gov.~~

~~(3-23-22)~~

~~06. Recognition of Federal Waivers. Whenever a driver or carrier has applied to a federal agency and been granted a waiver from any of the requirements of these federal regulations incorporated by reference in these rules, the federal waiver will also be recognized under these rules. The Department reserves the authority to implement a waiver program and grant waivers on the state level for intrastate commercial motor vehicle drivers.~~

~~( )~~

003. -- 007. (RESERVED)

008. FORMS.

The Idaho State Police Commercial Vehicle Safety Program Manager is authorized to produce and distribute forms and reports to carry out these rules. ( )

**009. RELIEF FROM REGULATIONS.**

The Department may issue a declaration of emergency relieving intrastate carriers from the requirements of 49 CFR Parts 390 through 399 adopted by reference in Section ~~019~~ of these rules following the declaration of an emergency. ~~The maximum duration of the declaration of emergency, the particular rules in 49 CFR Parts 390 through 399 from which the carrier is relieved from complying, and all other aspects relieved from regulation are the same as provided in those Federal regulations 002.03.~~ (3-23-22)( )

**010. DEFINITIONS.**

Whenever any term used in these rules is defined or referred to in the Idaho Code, that term takes its statutory definition in these rules. In addition to the relevant definitions found in the regulations incorporated by reference the following definitions apply: (3-23-22)( )

~~01. Commercial Motor Vehicle (CMV). Any self-propelled or towed motor vehicle used on a highway in interstate or intrastate commerce to transport passengers or property when the vehicle:~~ (3-23-22)

~~a. Has a gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR), or gross vehicle weight (GVW) or gross combination weight (GCW), of four thousand, five hundred thirty six kilograms (4,536 kg.), (ten thousand, one pounds (10,001 lbs.)) or more, whichever is greater; or~~ (3-23-22)

~~b. Is designed or used to transport more than eight (8) passengers, including the driver, for compensation; or~~ (3-23-22)

~~c. Is designed or used to transport more than fifteen (15) passengers, including the driver, and is not used to transport passengers for compensation; or~~ (3-23-22)

~~d. Is used in transporting material found by the Secretary of Transportation to be hazardous under 49 U.S.C. 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary under 49 CFR, Subtitle B, Chapter I, Subchapter C.~~ (3-23-22)

~~021. Department.~~ The Idaho State Police. ( )

~~03. Highway.~~ Public roads, highways, and streets of the State. (3-23-22)

~~042. Interstate Carrier.~~ Any person owning or operating any motor vehicle in the state of Idaho or on the highways of the state of Idaho, in commerce between the States, or between the States and a foreign Nation, used or maintained for the transportation of persons or property. ( )

~~05. Motor Carrier.~~ An individual, partnership, corporation or other legal entity engaged in the transportation by motor vehicle of persons or property in the furtherance of a business or for hire. (3-23-22)

~~06. Motor Vehicle.~~ Any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highway in the transportation of passengers and/or property, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails. (3-23-22)

~~07. Person.~~ Any individual, firm, co-partnership, corporation, company, association, or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof. (3-23-22)

~~083. Transportation.~~ Includes all vehicles operated by, for, or in the interest of any motor carrier irrespective of ownership or contract, express or implied, together with all services, facilities and property furnished, operated or controlled by any such carrier or carriers and used in the transportation of passengers and/or property in commerce in ~~the state of~~ Idaho. (3-23-22)( )

~~011. --018.~~ (RESERVED)

**012. SAFETY FITNESS PROCEDURES.**

**01. Purpose and Scope. (3-23-22)**

**a.** This section establishes procedures to determine the safety fitness of motor carriers, assign safety ratings, take remedial action when required and prohibit motor carriers receiving a safety rating of “unsatisfactory” from operating a commercial motor vehicle. (3-23-22)

**i.** To provide transportation of hazardous materials for which vehicle placarding is required in accordance with 49 CFR Part 172, subpart F; or (3-23-22)

**ii.** To transport more than fifteen (15) passengers, including the driver. (3-23-22)

**b.** All provisions of Section 012 apply to all motor carriers subject to the requirement of this subchapter. (3-23-22)

**02. Definitions.** The following definitions apply to Section 012. (3-23-22)

**a.** Applicable safety regulations or requirements. Means 49 CFR subtitle, chapter III, subchapter B- Federal Motor Carrier Safety Regulations; and 49 CFR subtitle B, chapter I, subchapter C- Hazardous Materials Regulations. Amendments to the annual volumes are published in the Federal Register, pending their incorporation in the next annual volumes. Whenever a federal regulation is adopted by reference in these rules, subsequent recom compilations are also adopted by reference, but subsequent amendments are not. (3-23-22)

**b.** Preventable accident on the part of a motor carrier. Means an accident that: (3-23-22)

**i.** Involved a commercial motor vehicle, and (3-23-22)

**ii.** Could have been averted but for an act, or failure to act, by the motor carrier or the driver. (3-23-22)

**e.** Reviews: (3-23-22)

**i.** Compliance review. An onsite examination of motor carrier operations, which may be at the carrier’s place of business, including driver’s hours of service, vehicle maintenance and inspection, driver qualifications, commercial driver’s license requirements, financial responsibility, accidents, hazardous materials, and such other related safety and transportation records to determine safety fitness. (3-23-22)

(1) A compliance review may be conducted in response to a request to change a safety rating, to investigate potential violations of safety regulations by motor carriers, or to investigate complaints or other evidence of safety violations. (3-23-22)

(2) A compliance review may result in the initiation of an enforcement action. (3-23-22)

**ii.** Safety management controls. The systems, policies programs, practices, and procedures used by a motor carrier to ensure compliance with applicable safety and hazardous materials regulations which ensure the safe movement of products and passengers through the transportation system, and to reduce the risk of highway accidents and hazardous materials incidents resulting in fatalities, injuries, and property damage. (3-23-22)

**d.** Safety ratings: (3-23-22)

**i.** Satisfactory safety rating. A motor carrier has in place and functioning adequate safety management controls to meet the safety fitness standard prescribed in Subsection 012.03 of this rule. Safety management controls are adequate if they are appropriate for the size and type of operation of the particular motor carrier. (3-23-22)

**ii.** Conditional safety rating. A motor carrier does not have adequate safety management controls in

~~place to ensure compliance with the safety fitness standard that could result in occurrences listed in Subsection 012.03 of this rule. (3-23-22)~~

~~iii. Unsatisfactory safety rating. A motor carrier does not have adequate safety management controls in place to ensure compliance with the safety fitness standard which has resulted in occurrences listed in Subsection 012.03 of this rule. (3-23-22)~~

~~iv. Unrated carrier. A safety rating has not been assigned to the motor carrier. (3-23-22)~~

~~**03. Safety Fitness Standard.** The satisfactory safety rating is based on the degree of compliance with the safety fitness standard for motor carriers. To meet the safety fitness standard, the motor carrier must demonstrate that it has adequate safety management controls in place, which function effectively to ensure acceptable compliance with applicable safety requirements to reduce the risk associated with: (3-23-22)~~

~~a. Commercial driver's license standards violations. (3-23-22)~~

~~b. Inadequate levels of financial responsibility. (3-23-22)~~

~~c. The use of unqualified drivers. (3-23-22)~~

~~d. Improper use and driving of motor vehicles. (3-23-22)~~

~~e. Unsafe vehicles operating on the highways. (3-23-22)~~

~~f. Failure to maintain accident register and copies of accident reports. (3-23-22)~~

~~g. The use of fatigued drivers. (3-23-22)~~

~~h. Inadequate inspection, repair, and maintenance of vehicles. (3-23-22)~~

~~i. Transportation of hazardous materials, driving and parking rule violations. (3-23-22)~~

~~j. Violation of hazardous materials regulations. (3-23-22)~~

~~k. Motor vehicle accidents and hazardous materials incidents. (3-23-22)~~

~~**04. Factors to Be Considered in Determining a Safety Rating.** The factors to be considered in determining the safety fitness and assigning a safety rating include information from safety reviews, compliance reviews and any other data. The factors may include all or some of the following: (3-23-22)~~

~~a. Adequacy of safety management controls. The adequacy of controls may be questioned if their degree of formalization or automation is found to be substantially below the norm for similar carriers. Violations, accidents or incidents substantially above the norm for similar carriers will be strong evidence that management controls are either inadequate or not functioning properly. (3-23-22)~~

~~b. Frequency and severity of regulatory violations. (3-23-22)~~

~~c. Frequency and severity of driver/vehicle regulatory violations identified in roadside inspections. (3-23-22)~~

~~d. Number and frequency of out-of-service driver/vehicle violations. (3-23-22)~~

~~e. Increase or decrease in similar types of regulatory violations discovered during safety or compliance reviews. (3-23-22)~~

~~f. Frequency of accidents; hazardous materials incidents; accident rate per million miles; preventable accident rate per million miles; and other accident indicators; and whether these accident and incident indicators have~~



~~improved or deteriorated over time. (3-23-22)~~

~~g. The number and severity of violations of state safety rules, regulations, standards, and orders applicable to commercial motor vehicles and motor carrier safety that are compatible with Federal rules, regulations, standards and orders. (3-23-22)~~

~~**05. Determination of Safety Fitness.** Following a compliance review of a motor carrier operation, the Idaho State Police Commercial Vehicle Safety Program Manager, using the factors prescribed in Subsection 012.04 of this rule, will determine whether the present operations of the motor carrier are consistent with the safety fitness standards set forth in Subsection 012.03 of this rule. (3-23-22)~~

~~**06. Notification of a Safety Fitness Rating.** Following a compliance review, the Idaho State Police Commercial Vehicle Safety Program Manager will determine the safety fitness of a motor carrier and notify the motor carrier and the Department in writing. Notification will include a list of those items for which immediate corrective actions must be taken. (3-23-22)~~

~~**07. Motor Carrier Certification.** Upon notification of violations cited in the compliance review and recommendations made to correct violations a motor carrier must certify to the Idaho State Police Commercial Vehicle Safety Program Manager, within thirty (30) days, whether all corrective actions identified by the safety review have been taken. Failure to certify or falsely certifying under Section 012 of this Chapter will be considered a reporting violation under Section 67-2901B(3), Idaho Code. (3-23-22)~~

~~**013.—017. (RESERVED)**~~

~~**018. TRANSPORTATION OF HAZARDOUS MATERIALS, SUBSTANCES, AND WASTES.**~~

~~**01. Obligation of Familiarity with Rules.** All interstate and foreign carriers and all intrastate carriers subject to Section 018 that transport hazardous materials, substances or wastes listed in, defined by or regulated by 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 must obtain copies of these federal regulations and make them available to their drivers and other personnel handling hazardous materials, substances or wastes and must familiarize their drivers and other personnel handling hazardous materials, substances or wastes with any regulation pertaining to the particular material, substance or waste that is transported. The annual volumes of the CFRs may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Amendments to the annual volumes are published in the Federal Register, pending their incorporation in the next annual volumes. Failure to be familiar with these federal regulations adopted by reference is a violation of Section 018 of this Chapter for any carrier transporting such cargoes. The federal regulations adopted by reference in this Section 018 have the following subject matter: (3-23-22)~~

- ~~a. Part 107. Hazardous Materials Program Procedures. (3-23-22)~~
- ~~b. Part 171. General Information, Regulations and Definitions. (3-23-22)~~
- ~~c. Part 172. Hazardous Materials Table, special provisions, hazardous materials communications, emergency response information, and training requirements. (3-23-22)~~
- ~~d. Part 173. Shippers General Requirements for Shipments and Packaging. (3-23-22)~~
- ~~e. Parts 174-176. (Not adopted regulations for railroads, aircraft and vessels). (3-23-22)~~
- ~~f. Part 177. Carriage by Public Highway. (3-23-22)~~
- ~~g. Part 178. Specifications for packagings. (3-23-22)~~
- ~~h. Part 179. (Not adopted regulations for rail tanker cars). (3-23-22)~~
- ~~i. Part 180. Continuing Qualification and Maintenance of Packagings. (3-23-22)~~

~~02. Recognition of Federal Waivers. Whenever a carrier has applied to a federal agency and been granted a waiver of the packaging requirements of the federal regulations adopted in Subsection 018.01, the federal waiver will also be recognized under these rules. The Department will not administer a program to duplicate consideration or approval of federal waivers on the state level. (3-23-22)~~

~~03. Hazardous Materials. Means a substance or material that the Secretary of Transportation has determined is capable of posing an unreasonable risk to health, safety, and property when transported in commerce and has designated as hazardous under section 5103 of the Federal hazardous materials transportation law (49 U.S.C. 5103). The term includes hazardous substances, hazardous wastes, marine pollutants, elevated temperature materials, materials designated as hazardous in the Hazardous Materials Table (see 49 CFR 172.101), and materials that meet the defining criteria for hazard classes and divisions in Part 173 of Subchapter C of Title 49 of the Code of Federal Regulations. (3-23-22)~~

~~04. Hazardous Substances. Means a material, its mixtures or solutions, that is listed in the Appendix A to 49 CFR 172.101 and that is in a quantity in one (1) package that equals or exceeds the reportable quantity (RQ) listed in the Appendix A to 49 CFR 172.101. (3-23-22)~~

~~05. Hazardous Waste. Means any material that is subject to the Hazardous Waste Manifest requirements of the U.S. Environmental Protection Agency. See 40 CFR Part 262. (3-23-22)~~

**019. CARRIER SAFETY REQUIREMENTS EXEMPTIONS.**

~~01. Adoption of Federal Regulations – Exceptions. (3-23-22)~~

~~a. All interstate and foreign carriers and intrastate carriers, except those carriers listed in Subsection 019.01.b. of this rule, subject to the safety authority of the Idaho State Police while operating in Idaho that transport passengers or property, must comply with 49 CFR Parts 356, 365, 382, 383, 385, 387, 388 and 390 through 399, and the law and rules of the state of Idaho (except Part 391.11(b)(1) for intrastate carriers). (3-23-22)~~

~~b. Intrastate carriers operating commercial motor vehicles transporting property with a GVW, GVWR, GCW or GCWR greater than ten thousand (10,000) pounds and up to twenty-six thousand (26,000) pounds, subject to the authority of the Idaho State Police, must comply with 49 CFR Part 390 Subpart A, Part 391.15, Parts 392, 393, and Part 396.1, 396.3(a), (a)(1), and (a)(2), and 396.5 through 396.9 and the law and rules of the state of Idaho. All intrastate carriers transporting placardable quantities of hazardous material under 49 CFR Part 172, Subpart F and passengers, meeting the definition of a commercial motor vehicle, must comply with 49 CFR Parts 356, 365, 382, 383, 385, 387, 388 and 390 through 399, and the law and rules of the state of Idaho (except Part 391.11(b)(1) for intrastate carriers). (3-23-22)~~

~~e. The subject matter of 49 CFR 391.11(b)(1) is a twenty-one (21) year minimum age for drivers of commercial vehicles subject to federal safety regulation. Intrastate carriers subject to the safety authority of the Idaho State Police may hire drivers who are eighteen (18) years or older as set forth in Section 49-303, Idaho Code. (3-23-22)~~

~~02. Obligation of Familiarity with Rules. All interstate and foreign carriers and all intrastate carriers subject to Section 019, must obtain copies of the federal regulations adopted by reference in Subsection 019.01 of this rule, and make them available to their drivers and other personnel affected by the regulations. Failure to be familiar with these federal regulations adopted by reference is a violation of this Subsection 019.02 of this rule, for any carrier subject to those regulations. The federal regulations adopted by reference address the following subject matter: (3-23-22)~~

~~a. Part 356. Motor Carrier Routing Regulations. (3-23-22)~~

~~b. Part 365. Rules Governing Application for Operating Authority. (3-23-22)~~

~~e. Part 380. Longer Combination Vehicle (LCV) Driver Training and Driver Instructor Requirements. (3-23-22)~~

- ~~d.~~ Part 382. Controlled Substance and Alcohol Use and Testing. (3-23-22)
- ~~e.~~ Part 383. Commercial Driver's License Standards; Requirements and Penalties. (3-23-22)
- ~~f.~~ Part 385. Safety Fitness Procedures. (3-23-22)
- ~~g.~~ Part 386.71-84. Rules of Practice for Motor Carrier, Intermodal Equipment Provider, Broker, Freight Forwarder, and Hazardous Materials Proceedings. (3-23-22)
- ~~h.~~ Part 387. Minimum Levels of Financial Responsibility. (3-23-22)
- ~~i.~~ Part 388. Cooperative Agreements with States. (3-23-22)
- ~~j.~~ Part 390. Federal Motor Carrier Safety Regulations: General. (3-23-22)
- ~~k.~~ Part 391. Qualifications of Drivers. (3-23-22)
- ~~l.~~ Part 392. Driving of Commercial Motor Vehicles. (3-23-22)
- ~~m.~~ Part 393. Parts and Accessories Necessary for Safe Operation. (3-23-22)
- ~~n.~~ Part 395. Hours of Service of Drivers. (3-23-22)
- ~~o.~~ Part 396. Inspection, Repair and Maintenance. (3-23-22)
- ~~p.~~ Part 397. Transportation of Hazardous Materials; Driving and Parking Rules. (3-23-22)
- ~~q.~~ Part 398. Transportation of Migrant Workers. (3-23-22)
- ~~r.~~ Part 399. Employee Safety and Health Standards. (3-23-22)

~~03. Recognition of Federal Waivers.~~ Whenever a driver or carrier has applied to a federal agency and been granted a waiver from any of the requirements of the federal regulations adopted in Subsection 019.01 of these rules, the federal waiver will also be recognized under these rules. The Department reserves the authority to implement a waiver program and grant waivers on the state level for intrastate commercial motor vehicle drivers. (3-23-22)

~~01. Intrastate Carriers.~~ Interstate carriers subject to both the incorporated federal rules and the safety authority of the Idaho State Police may hire drivers who are eighteen (18) years or older as set forth in Section 49-303, Idaho Code. ( )

~~020. -- 02999. (RESERVED)~~

~~030. INTERSTATE AND FOREIGN COMMERCE.~~

~~Section 018 and 019 of these rules apply to motor carriers when engaged in interstate or foreign commerce in Idaho.~~ (3-23-22)

~~031. OBEDIENCE AND COMPLIANCE WITH RULES AND REGULATIONS.~~

~~01. Proof of Compliance Required.~~ Whenever requested by an employee of this Department whose duties include enforcement of any of these rules and regulations, all motor carriers and their agents or employees are required to demonstrate proof of compliance with these rules. (3-23-22)

~~02. Sanctions.~~ The failure of any motor carrier to obey and comply with these rules is just and sufficient cause for imposition of the sanctions authorized by Title 67, Chapter 29, Idaho Code. (3-23-22)

~~032. -- 999. (RESERVED)~~

**IDAPA 13 – IDAHO FISH AND GAME COMMISSION**  
**ESTABLISHING SEASONS AND LIMITS FOR HUNTING, FISHING, AND TRAPPING IN IDAHO**  
**DOCKET NO. 13-0000-2300P7**  
**NOTICE OF ADOPTED / AMENDED PROCLAMATIONS FOR CALENDAR YEAR 2023**

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

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

**DESCRIPTIVE SUMMARY AND PUBLIC MEETING SCHEDULE:** The Commission meeting schedule and meeting agendas are available on-line at [Commission Meeting Schedule](#), with opportunities for public comment generally scheduled at its January, March, May, July, and November meetings.

Information for Commission proclamations for calendar year 2023 was initially published in the January 4, 2023, Idaho Administrative Bulletin, [Volume 23-1, pages 64-65](#).

At a meeting on July 12, 2023, the Commission took the following proclamation action:

1. Adopted a proclamation for the 2023 Chinook Salmon season in the Boise River, establishing seasons and limits for taking of Chinook Salmon.

At a meeting on July 28, 2023, the Commission took the following proclamation action:

1. Adopted a proclamation setting the 2023 sage-grouse hunting season and tag limits.
2. Set general hunt tag limits for nonresidents for uncapped elk zones and general deer units for the 2024 hunting season.
3. Established the statewide limit for general hunt tags set aside for outfitted hunters and allocated general hunt tags for outfitted hunters in uncapped elk zones and general deer units for the 2024 hunting season.

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

# IDAPA 13 – IDAHO DEPARTMENT OF FISH AND GAME

## 13.01.04 – RULES GOVERNING LICENSING

DOCKET NO. 13-0104-2301

### NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is July 27, 2023.

**AUTHORITY:** In compliance with Section 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 34-104, 36-105, and 36-408, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 20, 2023.

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

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

The temporary rule confers a benefit to outfitting businesses in Idaho, and supports implementation of IDAPA 13.01.04 section 506, by removing from rule the limit for outfitter tag set-aside which then allows flexibility for the Commission to meet the outfitter tag allocation which is based on outfitter tag verified use. The rule change permits the Commission to adjust the set-aside when the verified use reflects an increase in allocation.

The proposed rule adopted concurrently with this temporary rule will authorize the Commission the flexibility to adopt this practice in perpetuity.

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

The rule confers a benefit (as described in the preceding section).

**FEE SUMMARY:** Not applicable. The temporary and proposed rules do not impose new fees or charges.

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

There is no fiscal impact to the General Fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the change to rule was simple in nature and necessary to maintain a limit provided through a calculation generating a limit in IDAPA 13.01.04 section 506, which was agreed upon through negotiated rulemaking and adopted in Legislative Session 2023.

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

This change to the rule does not include any incorporation by reference.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Amber Worthington at (208) 334-3771.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2023.

DATED this 4th day of August, 2023.

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

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT  
OF DOCKET NO. 13-0104-2301  
(Only Those Sections With Amendments Are Shown.)**

**500. NONRESIDENT DEER AND ELK TAG OUTFITTER SET-ASIDE.**

~~01. Tags. The following numbers of nonresident general hunt deer tags and nonresident general hunt elk tags will annually be set aside and reserved for sale to persons who have entered into an agreement to utilize the services of an outfitter licensed under Chapter 21, Title 36, Idaho Code. For each Hunting Season: (3-31-22)~~

~~a. One thousand nine hundred eighty five (1,985) deer tags (the combined total of regular and White-tailed); (3-31-22)~~

~~b. Two thousand nine hundred (2,900) elk tags (the combined total of A and B tags for all zones). (3-31-22)~~

~~021. Restrictions. Tags for use in general hunts will be sold on a first-come, first-serve basis through July 14 of each year. Application for tag purchase of these tags will be made by the outfitter for the nonresident outfitted hunter on a form prescribed by the Department. The application shall be accompanied by along with the appropriate license fees and a certification by the outfitter that the nonresident hunter has a contract to hunt with the outfitter making application. (3-31-22)(7-27-23)T~~

~~032. Unsold Tags. Any tags not sold by July 15 of each year will be sold by the Department to nonresidents on a first-come, first serve basis. (3-31-22)(7-27-23)T~~

**IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE**  
**16.02.02 – IDAHO EMERGENCY MEDICAL SERVICES (EMS) PHYSICIAN COMMISSION**  
**DOCKET NO. 16-0202-2301 (ZBR CHAPTER REWRITE)**  
**NOTICE OF RULEMAKING – PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-1013A, and 56-1023, Idaho Code.

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

<b>VIRTUAL TELECONFERENCE Via WebEx</b>
<b>Friday, September 8, 2023</b> <b>1:00 p.m. - 3:00 p.m. (MT)</b>
<b>Join from the meeting link</b> <a href="https://idhw.webex.com/idhw/j.php?MTID=m53b8e38c43a0ad62ef739ff2c479b55c">https://idhw.webex.com/idhw/j.php?MTID=m53b8e38c43a0ad62ef739ff2c479b55c</a>
<b>Join by meeting number</b> <b>Meeting number (access code): 2763 328 2701</b> <b>Meeting password: pU2Wp22gmwd (78297224 from phones and video systems)</b>
<b>Join by phone</b> <b>+1-415-527-5035 United States Toll</b> <b>+1-303-498-7536 United States Toll (Denver)</b>

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below. Each meeting will conclude after 30 minutes if no participants sign in or wish to comment in the meeting.

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

Under [Executive Order 2020-01: Zero-Based Regulation](#), the Department is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. The rule changes are intended to perform a comprehensive review of this chapter by collaborating with the public to streamline or simplify this rule language.

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

This chapter contains no fees or charges.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 3, 2023, Idaho Administrative Bulletin, [Vol. 23-5, pages 146 and 147](#).

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

This chapter incorporates by reference the revised Idaho Emergency Medical Services (EMS) Physician Commission Standards Manual, edition 2024-1. This document is incorporated by reference to save space in the chapter and ensure that it continues to have the force and effect of law.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Jathan Nalls at 208-334-4007.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2023.

DATED this 4th day of August, 2023.

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  
[dhwrules@dhw.idaho.gov](mailto:dhwrules@dhw.idaho.gov) email

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0202-2301**  
**(ZBR Chapter Rewrite)**

**16.02.02 – IDAHO EMERGENCY MEDICAL SERVICES (EMS) PHYSICIAN COMMISSION**

**000. LEGAL AUTHORITY.**

~~Under Sections 56-1013A and 56-1023, Idaho Code, the Idaho Emergency Medical Services (EMS) Physician Commission is authorized to promulgate these rules for the purpose of to establishing standards for scope of practice and medical supervision for licensed personnel, air medical, ambulance services, and nontransport agencies licensed by the Department of Health and Welfare.~~  
(3-17-22)( )

**001. TITLE AND SCOPE. (RESERVED)**

~~**01. Title.** The title of these rules is IDAPA 16.02.02, "Idaho Emergency Medical Services (EMS) Physician Commission."~~  
(3-17-22)

~~**02. Scope.** The scope of these rules is to define the allowable scope of practice, acts, and duties that can be performed by persons licensed as emergency medical services personnel by the Department of Health and Welfare Bureau of Emergency Medical Services and Preparedness and to define the required level of supervision by a physician.~~  
(3-17-22)

**002. INVESTIGATIONS.**



**01. Physician Professional Disciplinary Enforcement Investigations.** ~~The provisions of~~ Section 54-1806A, Idaho Code, governs investigation of complaints regarding physicians. (3-17-22)( )

**02. EMS Personnel and EMS Agency Complaint Investigations.** ~~The provisions of~~ IDAPA 16.01.12, "Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions," govern investigation of complaints regarding licensed EMS personnel and EMS Agencies. (3-17-22)( )

**003. INCORPORATION BY REFERENCE.**

~~The Idaho Emergency Medical Services (EMS) Physician Commission EMSPC has adopted~~ incorporated by reference the Idaho Emergency Medical Services (EMS) Physician Commission Standards Manual, edition 2020-1; ~~and hereby incorporates this Standards Manual by reference.~~ Copies of the manual may be obtained on the Internet are available at <https://healthandwelfare.idaho.gov/about-dhw/boards-councils-committees/ems-physician-commission> or from the Bureau of Emergency Medical Services and Preparedness located at 2224 East Old Penitentiary Road, Boise, ID, 83712-8249; ~~whose the~~ mailing address is P.O. Box 83720, Boise, Idaho 83720-0036. (3-17-22)( )

**004. EMS COMPLAINTS.**

~~The provisions of~~ IDAPA 16.01.12, "Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions," governs the confidentiality of the investigation of complaints regarding licensed EMS personnel. (3-17-22)( )

**005. -- 009. (RESERVED)**

**010. DEFINITIONS.**

In addition to the applicable definitions in Section 56-1012, Idaho Code, and IDAPA 16.01.02, "Emergency Medical Services (EMS) -- Rule Definitions," the following terms are used in ~~this chapter as defined below~~ these rules: (3-17-22)( )

**01. Credentialed EMS Personnel.** Individuals ~~who are~~ authorized to provide medical care by the EMS medical director, hospital supervising physician, or medical clinic supervising physician. (3-17-22)( )

**02. Credentialing.** The local process by which licensed EMS personnel are authorized to provide medical care in the out-of-hospital, hospital, and medical clinic setting, including the determination of a local scope of practice. ( )

**03. Designated Clinician.** A ~~licensed~~ Physician Assistant (PA) or Nurse Practitioner designated by the EMS medical director, hospital supervising physician, or medical clinic supervising physician ~~who is~~ responsible for direct (on-line) medical supervision of licensed EMS personnel in the temporary absence of the EMS medical director. (3-17-22)( )

**04. Direct (On-Line) Supervision.** Contemporaneous instructions and directives about a specific patient encounter provided by a physician or designated clinician to licensed EMS personnel ~~who are~~ providing medical care. (3-17-22)( )

**05. Emergency Medical Services (EMS).** Under Section 56-1012(12), Idaho Code, emergency medical services or EMS is aid rendered by an individual or group of individuals who do the following: ( )

a. Respond to a perceived need for medical care ~~in order~~ to prevent loss of life, aggravation of physiological or psychological illness, or injury; (3-17-22)( )

b. Are prepared to provide interventions that are within the scope of practice ~~as defined by the Idaho Emergency Medical Services Physician Commission (EMSPC);~~ under IDAPA 16.02.02, "Idaho Emergency Medical Services (EMS) Physician Commission"; (3-17-22)( )

c. Use an alerting mechanism to initiate a response to requests for medical care; and ( )

d. Offer, advertise, or attempt to respond as described in Section 56-1012(12), (a) through (c), Idaho

- Code. ( )
- e. Aid rendered by a ski patroller, as described in Section 54-1804(1)(h), Idaho Code, is not EMS. ( )
- 06. Emergency Medical Services (EMS) Bureau.** The Bureau of Emergency Medical Services (EMS) and Preparedness ~~of for the Idaho Department of Health and Welfare.~~ (3-17-22)( )
- 07. Emergency Medical Services ~~(EMS)~~ Physician Commission (EMSPC).** The Idaho Emergency Medical Services Physician Commission as created under Section 56-1013A, Idaho Code, ~~hereafter referred to as "the Commission."~~ (3-17-22)( )
- 08. EMS Agency.** An organization licensed by the EMS Bureau to provide emergency medical services in Idaho. ( )
- 09. EMS Medical Director.** A physician who supervises the medical activities of licensed personnel affiliated with an EMS agency. ( )
- 10. Hospital.** A facility in Idaho licensed under Sections 39-1301 through 39-1314, Idaho Code, and defined in Section 39-1301(a)(1), Idaho Code. ( )
- 11. Hospital Supervising Physician.** A physician who supervises the medical activities of licensed EMS personnel while employed or utilized for delivery of services in a hospital. ( )
- 12. Indirect (Off-Line) Supervision.** The medical supervision, provided by a physician, to licensed EMS personnel who are providing medical care including EMS system design, education, quality management, patient care guidelines, medical policies, and compliance. (3-17-22)( )
- 13. License.** A license issued by the EMS Bureau to an individual for a specified period ~~of time~~ indicating that minimum standards corresponding to one (1) of several levels of EMS proficiency have been met. (3-17-22)( )
- 14. Licensed EMS Personnel.** Individuals who possess a valid license issued by the EMS Bureau. ( )
- 15. Medical Clinic.** A place devoted primarily to the maintenance and operation of facilities for outpatient medical, surgical, and emergency care of acute and chronic conditions or injury. ( )
- 16. Medical Clinic Supervising Physician.** A physician who supervises the medical activities of licensed EMS personnel while employed or utilized for delivery of services in a medical clinic. ( )
- 17. Medical Supervision.** The advice and direction provided by, ~~or under the direction of a physician,~~ or under the direction of a physician, to licensed EMS personnel who are providing medical care, including direct and indirect supervision. (3-17-22)( )
- 18. Medical Supervision Plan.** The written document describing the provisions for medical supervision of licensed EMS personnel. ( )
- 19. Nurse Practitioner.** An Advanced Practice Professional Nurse, licensed ~~in the category of as a~~ Nurse Practitioner, ~~as defined in under~~ IDAPA 24.34.01, "Rules of the Idaho Board of Nursing." (3-17-22)( )
- 20. Out-of-Hospital.** Any setting outside of a hospital, including inter-facility transfers, in which the provision of emergency medical services may take place. ( )
- 21. Physician.** ~~In accordance with Under~~ Section 54-1803, Idaho Code, a person who holds a current active license issued by the Board of Medicine to practice medicine and surgery, osteopathic medicine and surgery, or osteopathic medicine in Idaho and is in good standing with no restriction upon, or actions taken against, their license.

(3-17-22)( )

22. **Physician Assistant.** A person who meets ~~all the applicable~~ requirements to practice as a licensed physician assistant under Title 54, Chapter 18, Idaho Code, and IDAPA 24.33.02, “Rules for the Licensure of Physician Assistants.” (3-17-22)( )

011. -- 094. (RESERVED)

095. GENERAL PROVISIONS.

01. **Practice of Medicine.** ~~This chapter does not~~ These rules may authorize the practice of medicine ~~or any of its branches by a person not licensed to do so by the Board of Medicine~~ by licensed EMS personnel practicing within their defined scope of practice. (3-17-22)( )

02. **Patient Consent.** The provision or refusal of consent for individuals receiving emergency medical services ~~is governed by~~ under Title 39, Chapter 45, Idaho Code. (3-17-22)( )

03. **System Consistency.** All EMS medical directors, hospital supervising physicians, and medical clinic supervising physicians must collaborate to ensure EMS agencies and licensed EMS personnel have protocols, policies, standards of care, and procedures that are consistent and compatible with one another. ( )

096. -- 099. (RESERVED)

100. GENERAL DUTIES OF EMS PERSONNEL.

01. **General Duties.** General duties of EMS personnel include the following: ( )

a. Licensed EMS personnel must possess a valid license issued by the EMS Bureau equivalent to or higher than the scope of practice authorized by the EMS medical director, hospital supervising physician, or medical clinic supervising physician. ( )

b. Licensed EMS personnel must only provide patient care for which they have been trained, based on curricula or specialized training approved ~~according to~~ under IDAPA 16.01.07, “Emergency Medical Services (EMS) -- Personnel Licensing Requirements,” or additional training approved by the hospital or medical clinic supervising physician. (3-17-22)( )

c. Licensed EMS personnel must not perform a task ~~(s) or tasks~~ within their scope of practice that ~~have~~ has been specifically prohibited by their EMS medical director, hospital supervising physician, or medical clinic supervising physician. (3-17-22)( )

d. Licensed EMS personnel that possess a valid credential issued by the EMS medical director, hospital supervising physician, or medical clinic supervising physician are authorized to provide services when representing an Idaho EMS agency, hospital, or medical clinic and under any ~~one~~ (1) of the following conditions: (3-17-22)( )

i. When part of a documented, planned deployment of personnel resources approved by the EMS medical director, hospital supervising physician, or medical clinic supervising physician; ~~or~~ (3-17-22)( )

ii. When, in a manner approved by the EMS medical director, hospital supervising physician, or medical clinic supervising physician, administering first aid or emergency medical attention ~~in accordance with~~ under Section 5-330 or 5-331, Idaho Code, without expectation of remuneration; or (3-17-22)( )

iii. When participating in a training program approved by the EMS Bureau, the EMS medical director, hospital supervising physician, or medical clinic supervising physician. ( )

02. **Scope of Practice.** ( )

- a. The ~~Commission~~ EMSPC maintains an “EMS Physician Commission Standards Manual” that: (3-17-22)( )
  - i. Establishes the scope of practice of licensed EMS personnel; and ( )
  - ii. Specifies the type and degree of medical supervision for specific skills, treatments, and procedures by level of EMS licensure. ( )
- b. The ~~Commission~~ EMSPC will consider the United States Department of Transportation's National EMS Scope of Practice Model when preparing or revising the standards manual ~~described in~~ under Subsection 100.02.a. of this rule; (3-17-22)( )
- c. The scope of practice established by the EMS PC-Physician Commission determines the objectives of applicable curricula and specialized education of licensed EMS personnel; (3-17-22)( )
- d. The scope of practice does not define a standard of care, nor does it define what should be done in a given situation; ( )
- e. Licensed EMS personnel must not provide out-of-hospital patient care that exceeds the scope of practice established by the ~~Commission~~ EMSPC; (3-17-22)( )
- f. Licensed EMS personnel must be credentialed by the EMS medical director, hospital supervising physician, or medical clinic supervising physician to be authorized for their scope of practice; ( )
- g. The credentialing of licensed EMS personnel affiliated with an EMS agency, ~~in accordance with~~ under IDAPA 16.01.03, “Emergency Medical Services (EMS) -- Agency Licensing Requirements,” must not exceed the licensure level of that EMS agency; and (3-17-22)( )
- h. The patient care provided by licensed EMS personnel must conform to the Medical Supervision Plan as authorized by the EMS medical director, hospital supervising physician, or medical clinic supervising physician. ( )

**101. -- 199. (RESERVED)**

**200. EMS MEDICAL DIRECTOR, HOSPITAL SUPERVISING PHYSICIAN, AND MEDICAL CLINIC SUPERVISING PHYSICIAN QUALIFICATIONS.**

The EMS Medical Director, Hospital Supervising Physician, and Medical Clinic Supervising Physician must: ( )

**01. Accept Responsibility.** Accept responsibility for the medical direction and medical supervision of the activities provided by licensed EMS personnel. ( )

**02. Complete Medical Director Training.** Complete any required Medical Director training within one (1) year of appointment. ( )

**023. Maintain Knowledge of EMS Systems.** Obtain and maintain knowledge of the contemporary design and operation of EMS systems. ( )

**034. Maintain Knowledge of Idaho EMS.** Obtain and maintain knowledge of Idaho EMS laws, regulations, and standards manuals. ( )

**201. -- 299. (RESERVED)**

**300. EMS MEDICAL DIRECTOR, HOSPITAL SUPERVISING PHYSICIAN, AND MEDICAL CLINIC SUPERVISING PHYSICIAN RESPONSIBILITIES AND AUTHORITY.**

**01. Documentation of Written Agreement.** The EMS medical director must document a written

agreement with the EMS agency to supervise licensed EMS personnel and provide such documentation to the EMS Bureau annually and upon request. ( )

**02. Approval for EMS Personnel to Function.** ( )

a. The explicit approval of the EMS medical director, hospital supervising physician, or medical clinic supervising physician is required for licensed EMS personnel under their supervision to provide medical care. ( )

b. The EMS medical director, hospital supervising physician, or medical clinic supervising physician may credential licensed EMS personnel under their supervision with a limited scope of practice relative to that allowed by the EMS ~~PC-Physician Commission~~, or with a limited scope of practice corresponding to a lower level of EMS licensure. (3-17-22)( )

**03. Restriction or Withdrawal of Approval for EMS Personnel to Function. The EMS medical director, hospital supervising physician, or medical clinic supervising physician:** (3-17-22)( )

a. ~~The EMS medical director, hospital supervising physician, or medical clinic supervising physician~~ eCan restrict the scope of practice of licensed EMS personnel under their supervision when such personnel fail to meet or maintain proficiencies established by the EMS medical director, hospital supervising physician, or medical clinic supervising physician, or the Idaho EMS Bureau. (3-17-22)( )

b. ~~The EMS medical director, hospital supervising physician, or medical clinic supervising physician~~ eCan withdraw approval of licensed EMS personnel to provide services, under their supervision, when such personnel fail to meet or maintain proficiencies established by the EMS medical director, hospital supervising physician, or medical clinic supervising physician, or the EMS Bureau. (3-17-22)( )

c. ~~The EMS medical director, hospital supervising physician, or medical clinic supervising physician~~ mMust report in writing such restriction or withdrawal of approval within fifteen (15) days of the action to the EMS Bureau in accordance with Section 39-1393, Idaho Code. (3-17-22)( )

**04. Review Qualifications of EMS Personnel.** The EMS medical director, hospital supervising physician, or medical clinic supervising physician must document the review of the qualification, proficiencies, and all other EMS agency, hospital, and medical clinic affiliations of EMS personnel prior to credentialing the individual. ( )

**05. Document EMS Personnel Proficiencies.** The EMS medical director, hospital supervising physician, or medical clinic supervising physician must document that the capabilities of licensed EMS personnel are maintained on an ongoing basis through education, skill proficiencies, and competency assessment. ( )

**06. Develop and Implement a Performance Assessment and Improvement Program.** The EMS medical director must develop and implement a program for continuous assessment and improvement of services provided by licensed EMS personnel under their supervision. ( )

**07. Review and Update Procedures.** The EMS medical director must review and update protocols, policies, and procedures at least every two (2) years. ( )

**08. Develop and Implement Plan for Medical Supervision.** The EMS medical director, hospital supervising physician, or medical clinic supervising physician must develop, implement, and oversee a plan for supervision of licensed EMS personnel ~~as described in~~ under Subsection 400.06 of these rules. (3-17-22)( )

**09. Access to Records.** The EMS medical director must have access to all relevant agency, hospital, or medical clinic records as permitted or required by statute to ensure responsible medical supervision of licensed EMS personnel. ( )

**301. -- 399. (RESERVED)**

400. PHYSICIAN SUPERVISION IN THE OUT-OF-HOSPITAL SETTING.

01. **Medical Supervision Required.** ~~In accordance with~~ Under Section 56-1011, Idaho Code, licensed EMS personnel must provide emergency medical services under the supervision of a designated EMS medical director. (3-17-22)( )

02. **Designation of EMS Medical Director.** The EMS agency must designate a physician for the medical supervision of licensed EMS personnel affiliated with the EMS agency. ( )

~~03.~~ **Education of EMS Medical Director.** Medical director must complete mandatory education required by the EMSPC. ( )

~~034.~~ **Delegated Medical Supervision of EMS Personnel.** The EMS medical director can designate other physicians to supervise the licensed EMS personnel in the temporary absence of the EMS medical director. ( )

045. **Direct Medical Supervision by Physician Assistants (PA) and Nurse Practitioners.** The EMS medical director can designate ~~Physician Assistants (PAs)~~ and Nurse Practitioners for purposes of direct medical supervision of licensed EMS personnel under the following conditions: (3-17-22)( )

a. A designated physician is not present in the anticipated receiving health care facility; and ( )

b. The Nurse Practitioner, when designated, must have a preexisting written agreement with the EMS medical director describing the role and responsibilities of the Nurse Practitioner; or ( )

c. The physician supervising the PA, ~~as defined in under~~ IDAPA 24.33.02, "Rules for the Licensure of Physician Assistants," authorizes the PA to provide direct (on-line) supervision; and (3-17-22)( )

d. The PA, when designated, must have a preexisting written agreement with the EMS medical director describing the role and responsibilities of the PA related to supervision of EMS personnel. ( )

e. Such designated clinician must possess and be familiar with the medical supervision plan, protocols, standing orders, and standard operating procedures authorized by the EMS medical director. ( )

056. **Indirect Medical Supervision by Non-Physicians.** Non-physicians can assist the EMS medical director with indirect medical supervision of licensed EMS personnel. ( )

067. **Medical Supervision Plan.** The medical supervision of licensed EMS personnel must be provided ~~in accordance with~~ under a documented medical supervision plan that includes direct, indirect, on-scene, educational, and proficiency standards components. The requirements for the medical supervision plan are found in the Idaho EMS Physician Commission Standards Manual ~~that is incorporated by reference~~ under Section 004 of these rules. (3-17-22)( )

078. **Out-of-Hospital Medical Supervision Plan Filed with EMS Bureau.** The agency EMS medical director must submit the medical supervision plan within thirty (30) days of request to the EMS Bureau in a form described in the standards manual. ( )

a. The agency EMS medical director must identify the designated clinicians to the EMS Bureau annually in a form described in the standards manual. ( )

b. The agency EMS medical director must inform the EMS Bureau of any changes in designated clinicians or of a change in the agency medical director within thirty (30) days of the change(s). ( )

c. The EMS Bureau must provide the ~~Commission~~ EMSPC with the medical supervision plans within thirty (30) days of request. (3-17-22)( )

d. The EMS Bureau must provide the ~~Commission~~ EMSPC with the identification of EMS Medical

directors and designated clinicians annually and upon request.

(3-17-22)( )

401. -- 499. (RESERVED)

**500. ~~PHYSICIAN SUPERVISION~~ EMS PERSONNEL PRACTICE IN HOSPITALS AND ~~MEDICAL CLINICS.~~**

**01. Medical Supervision Required.** ~~In accordance with~~ Under Section 56-1011, Idaho Code, licensed EMS personnel must provide emergency medical services under the supervision of a designated hospital supervising physician or medical clinic supervising physician. (3-17-22)( )

~~**02. Level of Licensure Identification.** The licensed EMS personnel employed or utilized for delivery of services within a hospital or medical clinic, when on duty, must at all times visibly display identification specifying their level of EMS licensure.~~ (3-17-22)

~~**03. Credentialing of Licensed EMS Personnel in a Hospital or Medical Clinic.** The hospital or medical clinic must maintain a current written description of acts and duties authorized by the hospital supervising physician or medical clinic supervising physician for credentialed EMS personnel and must submit the descriptions upon request of the Commission or the EMS Bureau to be performed by licensed EMS personnel. Any of these acts or duties that is outside the public scope of practice for the licensed EMS personnel, the hospital has sole responsibility in training and credentialing.~~ (3-17-22)( )

~~**04. Notification of Employment or Utilization.** The licensed EMS personnel employed or utilized for delivery of services within a hospital or medical clinic must report such employment or utilization to the EMS Bureau within thirty (30) days of engaging such activity.~~ (3-17-22)

~~**05. Designation of Supervising Physician.** The hospital or medical clinic administration must designate a physician for the medical supervision of licensed EMS personnel employed or utilized in the hospital or medical clinic.~~ (3-17-22)

~~**06. Delegated Medical Supervision of EMS Personnel.** The hospital supervising physician or medical clinic supervising physician can designate other physicians to supervise the licensed EMS personnel during the periodic absence of the hospital supervising physician or medical clinic supervising physician.~~ (3-17-22)

~~**07. Direct Medical Supervision by Physician Assistants and Nurse Practitioners.** The hospital supervising physician, or medical clinic supervising physician can designate Physician Assistants (PA) and Nurse Practitioners for purposes of direct medical supervision of licensed EMS personnel under the following conditions:~~ (3-17-22)

~~**a.** The Nurse Practitioner, when designated, must have a preexisting written agreement with the hospital supervising physician or medical clinic supervising physician describing the role and responsibilities of the Nurse Practitioner; or~~ (3-17-22)

~~**b.** The physician supervising the PA, as defined in IDAPA 24.33.02, "Rules for the Licensure of Physician Assistants," authorizes the PA to provide supervision; and~~ (3-17-22)

~~**c.** The PA, when designated, must have a preexisting written agreement with the hospital supervising physician or medical clinic supervising physician describing the role and responsibilities of the PA related to supervision of EMS personnel.~~ (3-17-22)

~~**d.** Such designated clinician must possess and be familiar with the medical supervision plan, protocols, standing orders, and standard operating procedures authorized by the hospital supervising physician or medical clinic supervising physician.~~ (3-17-22)

~~**08. On-Site Contemporaneous Supervision.** Licensed EMS personnel will only provide patient care with on-site contemporaneous supervision by the hospital supervising physician, medical clinic supervising physician, or designated clinicians.~~ (3-17-22)

~~09. **Medical Supervision Plan.** The medical supervision of licensed EMS personnel must be provided in accordance with a documented medical supervision plan. The hospital supervising physician or medical clinic supervising physician is responsible for developing, implementing, and overseeing the medical supervision plan, and must submit the plan(s) within thirty (30) days of request by the Commission or the EMS Bureau. (3-17-22)~~

**501. -- 999. (RESERVED)**



**IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE**

**16.03.01 – ELIGIBILITY FOR HEALTH CARE ASSISTANCE FOR FAMILIES AND CHILDREN**

**DOCKET NO. 16-0301-2301 (ZBR CHAPTER REWRITE)**

**NOTICE OF RULEMAKING – PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-202, 56-203, and 56-209, Idaho Code.

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

<b>VIRTUAL TELECONFERENCE Via WebEx</b>
<b>Thursday, September 14, 2023 9:00 a.m. - 11:00 a.m. (MT)</b>
<b>Join from the meeting link</b> <a href="https://idhw.webex.com/idhw/j.php?MTID=mc5b44d8b37e5b0346b1d8ae2d5fa4a5a">https://idhw.webex.com/idhw/j.php?MTID=mc5b44d8b37e5b0346b1d8ae2d5fa4a5a</a>
<b>Join by meeting number</b> <b>Meeting number (access code): 2761 320 9796</b> <b>Meeting password: JwjXEgVJ822 (59593485 from phones and video systems)</b>
<b>Join by phone</b> <b>+1-415-527-5035 United States Toll</b> <b>+1-303-498-7536 United States Toll (Denver)</b>

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

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

Under [Executive Order 2020-01: Zero-Based Regulation](#), the Department is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. The rule changes are intended to perform a comprehensive review of this chapter by collaborating with the public to streamline or simplify this rule language.

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

This chapter contains no fees or charges.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 5, 2023, Idaho Administrative Bulletin, Vol. 23-4, pages 31 and 32.

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

There are no incorporations by reference in this chapter of rules.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Laura Schumaker at 208-799-4335.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2023.

DATED this 4th day of August, 2023.

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  
[dhwrules@dhw.idaho.gov](mailto:dhwrules@dhw.idaho.gov) email

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0301-2301**  
**(ZBR Chapter Rewrite)**

**16.03.01 – ELIGIBILITY FOR HEALTH CARE ASSISTANCE FOR FAMILIES AND CHILDREN**

**000. LEGAL AUTHORITY.**

~~In accordance with~~ Sections 56-202, 56-203, 56-209, 56-239, 56-250, 56-253, 56-255, 56-256 and 56-257, Idaho Code, ~~the Idaho Legislature has~~ authorized the Department ~~of Health and Welfare~~ to adopt and enforce rules for the administration of Title XIX of the Social Security Act (Medicaid), and Title XXI of the Social Security Act.

~~(3-17-22)~~( )

**001. TITLE AND SCOPE.**

~~01. Title. These rules are titled IDAPA 16.03.01, “Eligibility for Health Care Assistance for Families and Children.”~~ (3-17-22)

~~02. Scope. These rules provide standards for issuing coverage for Title XIX and Title XXI of the Social Security Act.~~ (3-17-22)

**002. WRITTEN INTERPRETATIONS.**

~~This agency~~ The Department has written statements that pertain to the interpretation of or documentation of compliance with these rules ~~of this chapter, or to the documentation of compliance with the rules of this chapter~~. The documents is are available for public inspection and copying at cost at the Department ~~of Health and Welfare~~ or at

any of ~~the Department's~~ its Regional Offices. (3-17-22)( )

**0032. -- 009. (RESERVED)**

**010. DEFINITIONS (A THROUGH L).**

~~For the purposes of this chapter, the following terms apply.~~ (3-17-22)

**01. Advanced Payment of Premium Tax Credit.** Payment of federal tax credits specified in 26 U.S.C. Part 36B (as added by ~~s~~Section 1401 of the Affordable Care Act) which are provided on an advance basis to an eligible individual enrolled in a Qualified Health Plan (QHP) through an exchange ~~in accordance with~~ under ~~s~~Sections 1402 and 1412 of the Affordable Care Act. (3-17-22)( )

**02. Adult.** Any individual who has passed the month of ~~his~~ their nineteenth birthday. (3-17-22)( )

**03. Affordable Care Act.** The Patient Protection and Affordable Care Act of 2010 (Pub. L. 111-148), as amended by the Health Care and Education Reconciliation Act of 2010 (~~Pub. L.~~ 111-152). (3-17-22)( )

**04. Applicant.** A person applying for public assistance from the Department, including individuals referred to the Department from a Health Insurance Exchange or Marketplace. ( )

**05. Application.** An application for benefits including an Application for Assistance (AFA) or other application recognized by the Department, including referrals from a Health Insurance Exchange or Marketplace. ( )

**06. Application Date.** The date the Application for Assistance (AFA) is received by the Department or by the Health Insurance Exchange or Marketplace electronically, telephonically, in person, or the date the application is postmarked, if mailed. ( )

**07. Caretaker Relative.** ~~A caretaker relative is a~~ relative of a child by full- or half-blood, adoption, or marriage with whom the child is living and who assumes primary responsibility for the child's care. A caretaker relative includes a child's natural, adoptive, or step-~~parents~~, grandparents, siblings, aunt, uncle, niece, nephew, or cousin. (3-17-22)( )

**08. Child.** Any individual from birth through the end of the month of ~~his~~ their nineteenth birthday. (3-17-22)( )

**09. Citizen.** A person having status as a "national of the United States" defined in 8 U.S.C. 1101(a)(22) that includes both citizens of the United States and non-citizen nationals of the United States. (3-17-22)( )

**10. Cost-Sharing.** A participant payment for a portion of Medicaid service costs such as deductibles, co-insurance, or co-payment amounts. ( )

**11. Creditable Health Insurance.** ~~Creditable health insurance is e~~Coverage that provides benefits for inpatient and outpatient hospital services and physicians' medical and surgical services. Creditable coverage excludes liability, limited scope dental, vision, specified disease, or other supplemental-type benefits. (3-17-22)( )

**12. Department.** The Idaho Department of Health and Welfare or its designee. (3-17-22)( )

**13. Federal Poverty Guidelines (FPG).** ~~The federal poverty guidelines i~~ssued annually by the Department of Health and Human Services (HHS). ~~The Federal Poverty Guidelines (FPG)~~ are available on the U.S. Health and Human Services website at <http://aspe.hhs.gov/poverty>. (3-17-22)( )

**14. Health Assessment.** ~~Health Assessment is a~~An examination performed by a primary care provider in order to determine the appropriate health plan for a Medicaid-eligible individual. (3-17-22)( )

**15. Health Care Assistance (HCA).** Health coverage that includes Medicaid coverage under Title XIX or Title XXI ~~as well as~~ and private health insurance plans purchased with a Premium Tax Credit described in

Subsection 010.01 of this rule granted by the Department for persons or families within ~~the State of~~ Idaho. (3-17-22)( )

**16. Health Insurance Premium Program (HIPP).** The Premium Assistance program in which Title XIX and Title XXI participants may participate. ( )

**17. Health Plan.** A set of health services paid for by Idaho Medicaid, or health insurance coverage obtained through the Health Insurance Exchange or Marketplace. ( )

**18. Health Questionnaire.** A tool used to assist ~~Health and Welfare~~ Department staff in determining the correct Health Plan for the Medicaid applicant. (3-17-22)( )

**19. Internal Revenue Code.** The federal tax law used to determine eligibility under Title 26 U.S.C. for individual income and self-employment income. (3-17-22)( )

**20. Internal Revenue Service (IRS).** The U.S. government agency in charge of tax laws. These laws are used to determine income eligibility. The IRS website is at <http://www.irs.gov>. (3-17-22)( )

**21. Insurance Affordability Programs.** ~~Insurance affordability programs include~~ Title XIX, ~~†~~ Title XXI, and all insurance programs available in the Health Insurance Exchange or Marketplace. (3-17-22)( )

**22. Lawfully Present.** An individual who is a qualified non-citizen ~~as described in~~ under Section 221 of these rules. (3-17-22)( )

**011. DEFINITIONS (M THROUGH Z).**  
~~For the purposes of this chapter, the following terms apply.~~ (3-17-22)

**01. MAGI-Based Income.** Income calculated using the same financial methodologies used by the IRS to determine modified adjusted gross income (MAGI) for federal tax filers, with the following exception ~~that~~: (3-17-22)( )

a. Educational income ~~is excluded in~~ under Section 382 of these rules; (3-17-22)( )

b. Indian monies excluded by federal law are not included in MAGI-based income; ( )

c. Lump sum income is counted only in the month received ~~in~~ under Section 384 of these rules; and (3-17-22)( )

d. For Medicaid applicants, MAGI-based income is calculated based on income received in the month of application. ( )

**02. Medicaid.** Idaho's Medical Assistance Program administered by the Department and funded with federal and state funds ~~according to~~ under Title XIX of the Social Security Act that provides medical care for eligible individuals. (3-17-22)( )

**03. Modified Adjusted Gross Income (MAGI).** ~~Modified Adjusted Gross Income (MAGI), is~~ Adjusted Gross Income as defined by the IRS, plus certain tax-exempt income. (3-17-22)( )

**04. Newborn Deemed Eligible.** A child born to a woman who is eligible for and receiving medical assistance on the date of the child's birth, including during a month of retroactive eligibility for the mother. A child ~~so~~ born under these conditions is eligible for Medicaid for the first year of ~~his~~ their life. (3-17-22)( )

**05. Non-Citizen.** Same as "alien" ~~defined in~~ under Section 101(a)(3) of the Immigration and Nationality Act (INA) (8 U.S.C. 1101 (a)(3)), and includes any individual who is not a citizen or national of the United States. (3-17-22)( )

**06. Parent.** For a household with a MAGI-based eligibility determination a parent can be: ( )

- a. Natural; ( )
- b. Biological; ( )
- c. Adoptive; or ( )
- d. Step-parent. (3-17-22)( )
07. **Participant.** An individual who is eligible for, and enrolled in, a Health Care Assistance program. ( )
08. **Qualified Hospital.** ~~A qualified hospital~~ Has a Memorandum of Understanding (MOU) with the Department, participates as a provider under the Medicaid ~~s~~State ~~p~~Plan, may assist individuals in completing and submitting applications for Hhealth coverage, and has not been disqualified from doing presumptive eligibility determinations. (3-17-22)( )
09. **Qualified Non-Citizen.** Same as “qualified alien” ~~defined at~~ under 8 U.S.C. 164(b) and (c). (3-17-22)( )
10. **Reasonable Opportunity Period.** A period ~~of time~~ allowed for an individual to provide requested proof of citizenship or identity. A reasonable opportunity period extends for ninety (90) days beginning on the 5th day after the notice requesting the proof has been mailed to the applicant. This period may be extended if the Department determines that the individual is making a ~~“good faith”~~ 2 effort to obtain necessary documentation. (3-17-22)( )
11. **Sibling.** For household with MAGI-based eligibility determination; ~~is~~ a natural or biological, adopted, half- or step-sibling. (3-17-22)( )
12. **Tax Dependent.** A person, who is a related child, or other qualifying relative or person, ~~according to~~ under federal IRS standards for whom another individual can claim a deduction for a personal exemption when filing a federal income tax for a taxable year. (3-17-22)( )
13. **Third-Party.** Includes a person, institution, corporation, public or private agency that is liable to pay all or part of the medical cost of injury, disease, or disability of a medical assistance participant. (3-17-22)( )
14. **Title XIX of the Social Security Act.** ~~Title XIX of the Social Security Act,~~ Also known as Medicaid, is a medical benefits program jointly financed by the federal and state governments and administered by the States. This program pays for medical assistance for certain individuals and families with low income, and for some program types, limited resources. (3-17-22)( )
15. **Title XXI of the Social Security Act.** ~~Title XXI of the Social Security Act,~~ Also known as the Children’s Health Insurance Program (CHIP), is a federal and state partnership similar to Medicaid; that expands health insurance to targeted, low-income children. (3-17-22)( )
012. -- 099. (RESERVED)

APPLICATION REQUIREMENTS  
(Sections 100-199)

100. PARTICIPANT RIGHTS.

The participant has rights protected by federal and state laws and Department rules. The Department ~~must will~~ inform participants of the following rights during the application process and eligibility reviews. (3-17-22)( )

01. **Right to Apply.** Any person has the right to apply for any Health Care Assistance program. Applications may be submitted by paper, electronically, fax, or telephonically. Application information must be in a form or format provided by the Department. ( )

**02. Right to Hearing.** Any participant can request a hearing to contest a Department ~~or Health Insurance Exchange or Marketplace~~ decision under ~~the provisions in~~ IDAPA 16.05.03, “Contested Case Proceedings and Declaratory Ruling.” (3-17-22)( )

**03. Right to Request Reinstatement of Benefits.** Any participant has the right to request reinstatement of benefits until a hearing decision is made if the request for the reinstatement is made before the effective date of the action taken on the notice of decision. Reinstatement pending a hearing decision is not provided ~~in the case of~~ if an application is denied because an individual did not provide citizenship or identity documentation during a reasonable opportunity period allowed by the Department. (3-17-22)( )

**101. -- 110. (RESERVED)**

**111. SIGNATURES.**

An individual who is applying for benefits, receiving benefits, or providing additional information as required by ~~this chapter~~ these rules, may do so with the depiction of the individual's name either handwritten, electronic, or recorded telephonically. Such signature serves as intention to execute or adopt the sound, symbol, or process for the purpose of signing the related record. (3-17-22)( )

**112. -- 129. (RESERVED)**

**130. APPLICATION TIME LIMITS.**

Each application ~~must~~ will be processed as close to real time as practicable, but not longer than forty-five (45) days, from the date of application, unless prevented by events beyond the Department’s control. (3-17-22)( )

**131. -- 139. (RESERVED)**

**140. ELIGIBILITY EFFECTIVE DATES.**

Title XIX and Title XXI coverage begins the first day of the application month. Coverage for a newborn is effective the date of birth. ( )

**141. -- 149. (RESERVED)**

**150. RETROACTIVE MEDICAL ASSISTANCE ELIGIBILITY.**

Title XIX and Title XXI can begin up to three (3) calendar months before the application month if the participant is eligible during the prior period. Coverage is provided if services that can be paid by Medicaid were received in the prior period. ( )

**151. -- 199. (RESERVED)**

**NON-FINANCIAL REQUIREMENTS**  
**(Sections 200-299)**

**200. NON-FINANCIAL CRITERIA FOR DETERMINING ELIGIBILITY.**

Non-financial criteria are conditions of eligibility, other than income, that must be met before Health Care Assistance can be authorized. ( )

**201. -- 209. (RESERVED)**

**210. RESIDENCY.**

The participant must live in Idaho and have no immediate intention of leaving, including an individual who has entered the state to look for work, or who has no permanent, fixed address. ( )

**211. -- 219. (RESERVED)**

**220. U.S. CITIZENSHIP VERIFICATION.**

**01. Citizenship Verified.** Citizenship must be verified through electronic means when available. If an electronic verification is not immediately obtainable, the Department may request documentation from the applicant. The Department will not deny the application for Health Coverage until the applicant has had a reasonable opportunity period to obtain and provide the necessary proof of U.S. citizenship. (3-17-22)( )

**02. Benefits During Reasonable Opportunity Period.** Benefits are provided during the reasonable opportunity period that is provided to allow the applicant time to obtain and provide documentation to verify U.S. citizenship. No overpayment exists for the reasonable opportunity period if the applicant does not provide necessary documentation during the reasonable opportunity period so that the application results in denial. ( )

**221. U.S. CITIZENSHIP AND QUALIFIED NON-CITIZEN REQUIREMENTS.**

~~To be eligible, an individual must be a lawfully present member of one (1) of the following groups: Any individual who participates in Medicaid benefits must provide proof of US citizenship unless they have otherwise met the requirements under 42 CFR 435.406 Citizenship and Non-Citizen Eligibility. (3-17-22)( )~~

~~**01. U.S. Citizen.** A U.S. Citizen or a “national of the United States.” (3-17-22)~~

~~**02. Child Born Outside the U.S.** A child born outside the U.S., as defined in Public Law 106-395, is considered a citizen if all of the following conditions are met: (3-17-22)~~

~~**a.** At least one (1) parent is a U.S. Citizen. The parent can be a citizen by birth or naturalization. This includes an adoptive parent; (3-17-22)~~

~~**b.** The child is residing permanently in the U.S. in the legal and physical custody of a parent who is a U.S. Citizen, and the child does not have IR-4 status; (3-17-22)~~

~~**c.** The child is under eighteen (18) years of age; (3-17-22)~~

~~**d.** The child is a lawful permanent resident; and (3-17-22)~~

~~**e.** If the child is an adoptive child, the child was residing in the U.S. at the time the parent was naturalized and was in the legal and physical custody of the adoptive parent. (3-17-22)~~

~~**03. Full-Time Active Duty U.S. Armed Forces Member.** A qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c) who is currently on full time active duty with the U.S. Army, U.S. Air Force, U.S. Marine Corps, U.S. Navy or U.S. Coast Guard, or a spouse or unmarried dependent child of the U.S. Armed Forces member. (3-17-22)~~

~~**04. Veteran of the U.S. Armed Forces.** A qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c) who was honorably discharged from the U.S. Army, U.S. Air Force, U.S. Marine Corps, U.S. Navy, or U.S. Coast Guard for a reason other than their citizenship status, or a spouse, including a surviving spouse who has not remarried, or an unmarried dependent child of the veteran. (3-17-22)~~

~~**05. Non-Citizen Entering the U.S. Before August 22, 1996.** A non citizen who entered the U.S. before August 22, 1996, who is currently a qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c), who remained continuously present in the U.S. until he became a qualified non-citizen. (3-17-22)~~

~~**06. Non-Citizen Entering on or After August 22, 1996.** A non-citizen who entered the U.S. on or after August 22, 1996, and who is: (3-17-22)~~

~~**a.** A refugee admitted into the U.S. under 8 U.S.C. 1157, and can be eligible for seven (7) years from the date of entry; (3-17-22)~~

~~**b.** An asylee granted asylum into the U.S. under 8 U.S.C. 1158, and can be eligible for seven (7) years from the date asylee status is assigned; (3-17-22)~~

~~**c.** An individual whose deportation or removal from the U.S. has been withheld under 8 U.S.C. 1253~~

or 1231(b)(3) as amended by Section 305(a) of Division C of Public Law 104-208, and can be eligible for seven (7) years from the date deportation or removal was withheld; (3-17-22)

~~d. An Amerasian immigrant admitted into the U.S. under 8 U.S.C. 1612(b)(2)(A)(i)(V), and can be eligible for seven (7) years from the date of entry; or (3-17-22)~~

~~e. A Cuban or Haitian entrant to the U.S. under Section 501(e) of the Refugee Assistance Act under Section 501(e) of P.L. 96-422 (1980), and can be eligible for seven (7) years from the date of entry. (3-17-22)~~

~~07. **Qualified Non-Citizen Entering on or After August 22, 1996.** A qualified non-citizen under 8 U.S.C. 1641(b) or (c), who entered the U.S. on or after August 22, 1996, and who has held a qualified non-citizen status for at least five (5) years. (3-17-22)~~

~~08. **American Indian Born in Canada.** An American Indian born in Canada, under 8 U.S.C. 1359. (3-17-22)~~

~~09. **American Indian Born Outside the U.S.** An American Indian born outside of the U.S., who is a member of a U.S. federally recognized tribe under 25 U.S.C. 450 b(e). (3-17-22)~~

~~10. **Qualified Non-Citizen Child Receiving Federal Foster Care.** A qualified non-citizen child as defined in 8 U.S.C. 1641(b) or (c), and receiving federal foster care assistance. (3-17-22)~~

~~11. **Victim of Severe Form of Trafficking.** A victim of a severe form of trafficking in persons, as defined in 22 U.S.C. 7102(13); who meets one (1) of the following: (3-17-22)~~

~~a. Is under the age of eighteen (18) years; or (3-17-22)~~

~~b. Is certified by the U.S. Department of Health and Human Services as willing to assist in the investigation and prosecution of a severe form of trafficking in persons; and (3-17-22)~~

~~i. Has made a bona fide application for a temporary visa under 8 U.S.C. 1104(a)(15)(T), which has not been denied; or (3-17-22)~~

~~ii. Is remaining in the U.S. to assist the U.S. Attorney General in the prosecution of traffickers in persons. (3-17-22)~~

~~12. **Afghan Special Immigrant.** An Afghan special immigrant, as defined in Public Law 110-161, who has special immigration status after December 26, 2007. (3-17-22)~~

~~13. **Iraqi Special Immigrant.** An Iraqi special immigrant, as defined in Public Law 110-181, who has special immigration status after January 28, 2008. (3-17-22)~~

~~14. **Individuals not Meeting the Citizenship or Qualified Non-Citizen Requirements.** An individual who does not meet the citizenship or qualified non-citizen requirements in Subsections 221.01 through 221.13 of this rule, may be eligible for emergency medical services if he meets all other conditions of eligibility. (3-17-22)~~

**222. U.S. CITIZENSHIP AND IDENTITY VERIFICATION REQUIREMENTS.**

Any individual who participates in a Title XIX Medicaid or Title XXI CHIP funded program must provide proof of U.S. citizenship and identity unless he has otherwise met the requirements under Section 226 of these rules. (3-17-22)

**223. DOCUMENTATION OF U.S. CITIZENSHIP.**

~~01. **Documents Accepted as Stand Alone Proof of U.S. Citizenship and Identity.** The following documents are accepted as proof of both U.S. citizenship and identity: (3-17-22)~~



- ~~a. A U.S. passport or a U.S. passport card, without regard to expiration date as long as the passport or passport card was issued without limitation; (3-17-22)~~
  - ~~b. A Certificate of Naturalization; (3-17-22)~~
  - ~~c. A Certificate of U.S. Citizenship. (3-17-22)~~
  - ~~d. Documented evidence, issued by a federally recognized Indian tribe, including tribes with an international border that identifies: (3-17-22)~~
    - ~~i. The federally recognized Indian Tribe issuing the document; (3-17-22)~~
    - ~~ii. The individual by name; (3-17-22)~~
    - ~~iii. Confirms the individual's membership; and (3-17-22)~~
    - ~~iv. Enrollment or affiliation with the Tribe. (3-17-22)~~
  - ~~e. Verification of U.S. citizenship by a federal agency or another state on or after July 1, 2006, no further documentation of U.S. citizenship or identity is required. (3-17-22)~~
- 02. Documents Accepted as Evidence of U.S. Citizenship.** The following documents are accepted as proof of U.S. citizenship if documented proof in Subsection 223.01 of this rule is not available. These documents are not proof of identity and must be used in combination with a least one (1) document listed in Subsection 223.03 or Section 224 of these rules to establish both citizenship and identity. (3-17-22)
- ~~a. A U.S. birth certificate that shows the individual was born in one (1) of the following: (3-17-22)~~
    - ~~i. United States' fifty (50) states; (3-17-22)~~
    - ~~ii. District of Columbia; (3-17-22)~~
    - ~~iii. Puerto Rico, on or after January 13, 1941; (3-17-22)~~
    - ~~iv. Guam; (3-17-22)~~
    - ~~v. U.S. Virgin Islands, on or after January 17, 1917; (3-17-22)~~
    - ~~vi. America Samoa; (3-17-22)~~
    - ~~vii. Swain's Island; (3-17-22)~~
    - ~~viii. Northern Mariana Islands, after November 4, 1986; or (3-17-22)~~
  - ~~b. A cross match with a state's vital statistics agency that documents birth records. (3-17-22)~~
  - ~~c. A certification of report of birth issued by the Department of State, Forms DS-1350 or FS-545; (3-17-22)~~
  - ~~d. A report of birth abroad of a U.S. Citizen, Form FS-240; (3-17-22)~~
  - ~~e. A U.S. Citizen I.D. card, DHS Form I-197; (3-17-22)~~
  - ~~f. A Northern Mariana Identification Card; (3-17-22)~~
  - ~~g. A final adoption decree showing the child's name and U.S. place of birth, or if the adoption is not final, a statement from the state approved adoption agency that shows the child's name and U.S. place of birth;~~

- (3-17-22)
- ~~h.~~ Evidence of U.S. Civil Service employment before June 1, 1976; (3-17-22)
  - ~~i.~~ An official U.S. Military record showing a U.S. place of birth; (3-17-22)
  - ~~j.~~ Certification of birth abroad, Form FS-545; (3-17-22)
  - ~~k.~~ Verification with the Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) database; (3-17-22)
  - ~~l.~~ Evidence of meeting the automatic criteria for U.S. citizenship outlined in the Child Citizenship Act of 2000; (3-17-22)
  - ~~m.~~ Medical records from a hospital, clinic, or doctor, admission papers from nursing facility, skilled care facility, or other institution that indicates a U.S. place of birth; (3-17-22)
  - ~~n.~~ Life, health, or other insurance record that indicates a U.S. place of birth. (3-17-22)
  - ~~o.~~ Officially recorded religious record that indicates a U.S. place of birth; (3-17-22)
  - ~~p.~~ School records, including pre-school, Head Start, and daycare that shows the child's name and indicates a U.S. place of birth; (3-17-22)
  - ~~q.~~ Federal or state census record that shows U.S. Citizenship or indicates a U.S. place of birth; or (3-17-22)
  - ~~r.~~ When an applicant has none of the documents listed in Subsections 223.02.a. through q. of this rule, an affidavit signed by another individual under the penalty of perjury who can reasonably attest to the applicant's citizenship, and that contains the applicant's name, and indicates the date and U.S. place of birth, may be submitted. The affidavit does not need to be notarized. (3-17-22)
- 03. Documents Accepted for Evidence of Identity.** The following documents are accepted as proof of identity provided the document has a photograph or other identifying information that includes name, age, sex, race, height, weight, eye color, or address. (3-17-22)
- ~~a.~~ A driver's license issued by a state or territory. A driver's license issued by a Canadian government authority is not a valid indicator of identity in the U.S. and cannot be used as evidence of identity. (3-17-22)
  - ~~b.~~ An identity card issued by federal, state, or local government; (3-17-22)
  - ~~c.~~ School identification card; (3-17-22)
  - ~~d.~~ U.S. Military card or draft record; (3-17-22)
  - ~~e.~~ Military dependent's identification card; (3-17-22)
  - ~~f.~~ U. S. Coast Guard Merchant Mariner card; or (3-17-22)
  - ~~g.~~ A finding of identity from a federal or state governmental agency, when the agency has verified and certified the identity of the individual, including public assistance, law enforcement, internal revenue or tax bureau, or corrections agency; (3-17-22)
  - ~~h.~~ A finding of identity from another state benefits agency or program provided that it obtained verification of identity as a criterion of participation; (3-17-22)
  - ~~i.~~ Two (2) documents containing consistent information that corroborates the applicant's identity

~~including employer identification cards, high school or high school equivalency diplomas, college diplomas, marriage certificates, divorce decrees, property deeds or titles;~~ (3-17-22)

~~j. Identity affidavits are acceptable evidence of identity for individuals living in a residential care facility.~~ (3-17-22)

~~k. When an applicant has none of the specified findings or documents listed in Subsections 223.03.a. through j. of this rule, the applicant may submit an affidavit signed by another individual under the penalty of perjury who can reasonably attest to the applicant's identity. The affidavit must contain the applicant's name, and identifying information to establish identity. The affidavit does not need to be notarized.~~ (3-17-22)

**224. IDENTITY RULES FOR CHILDREN.**

~~The following additional sources of documentation of identity for children under nineteen (19) years of age may be used:~~ (3-17-22)

~~01. School Records. School records may be used to establish identity, including nursery or day care records.~~ (3-17-22)

~~02. Medical Records. Clinic, hospital, or doctor records may be used to establish identity.~~ (3-17-22)

**225. ELIGIBILITY FOR APPLICANTS WHO DO NOT PROVIDE U.S. CITIZENSHIP AND IDENTITY DOCUMENTATION.**

~~01. U.S. Citizenship and Identity not Verified. When the Department is unable to obtain verification of U.S. citizenship and identity through electronic means, or the applicant is unable to provide documentation at the time of application, the applicant will have a reasonable opportunity period of ninety (90) days to provide proof of U.S. citizenship and identity.~~ (3-17-22)

~~02. Notice Mailed. The reasonable opportunity period of ninety (90) days to provide needed documentation for proof of U.S. citizenship and identity begins five (5) days after the date the notice requesting the proof of documentation is mailed.~~ (3-17-22)

~~03. Medicaid Benefits. If the applicant meets all other eligibility requirements, Medicaid benefits will be approved pending verification of U.S. citizenship and identity. Medicaid benefits will be denied if the applicant refuses to obtain documentation.~~ (3-17-22)

**226. INDIVIDUALS CONSIDERED AS MEETING THE U.S. CITIZENSHIP AND IDENTITY DOCUMENTATION REQUIREMENTS.**

~~The individuals listed in Subsections 226.01 through 226.06 of this rule are considered to have met the U.S. citizenship and identity requirements and are not required to provide further documentation.~~ (3-17-22)

~~01. Supplemental Security Income (SSI) Recipients.~~ (3-17-22)

~~02. Social Security Disability Income (SSDI) Recipients.~~ (3-17-22)

~~03. Individuals Entitled or Enrolled in Medicare by SSA. Individuals determined by the SSA to be entitled or enrolled in any part of Medicare.~~ (3-17-22)

~~04. Adoptive or Foster Care Children Receiving Assistance. Adoptive or foster care children receiving under Title IV B or Title IV E of the Social Security Act.~~ (3-17-22)

~~05. Individuals Deemed Eligible for Medicaid. A waived newborn under Section 530 of these rules.~~ (3-17-22)

~~06. Individuals Whose Records Match Records of the SSA. Confirmed records of SSA that match and include:~~ (3-17-22)

- ~~a. Name; (3-17-22)~~
- ~~b. Social Security Number; and (3-17-22)~~
- ~~c. Declaration of U.S. Citizenship. (3-17-22)~~

~~**227. ASSISTANCE IN OBTAINING DOCUMENTATION.**~~

~~The Department will provide assistance to individuals who need assistance in securing satisfactory documentary evidence of U.S. citizenship. (3-17-22)~~

~~**228. VERIFICATION OF CITIZENSHIP AND IDENTITY ONE TIME.**~~

~~Once an individual's U.S. citizenship and identity have been verified, whether through an electronic data match or by provided documentation, changes in eligibility will not require an individual to provide the verification again. If later verification, documentation, or information provides the Department with good cause to question the validity of the individual's U.S. citizenship or identity, the individual may be requested to provide further verification. (3-17-22)~~

~~**229.**~~ -- 249. (RESERVED)

**250. EMERGENCY MEDICAL CONDITION.**

An individual who meets eligibility criteria for a category of assistance but does not meet U.S. citizenship requirements or eligible non-citizen requirements may receive medical assistance under a Title XIX or Title XXI coverage group as follows: (3-17-22)( )

**01. Emergency Medical Conditions.** An individual not meeting the U.S. citizenship requirement may receive medical services necessary to treat an emergency medical condition, including labor and delivery. Emergency medical conditions have acute symptoms of severity, including severe pain. (3-17-22)( )

**02. Determination of Emergency Medical Conditions.** The Department determines if a condition meets criteria of an emergency medical condition. ( )

**03. Limitation on Medical Assistance.** Medical assistance is limited to the period of time established for the emergency medical condition. (3-17-22)( )

**04. Documentation Waived.** For undocumented individuals with emergency medical conditions, the Social Security Number (SSN) requirement is waived because an SSN cannot be issued. Individuals must be otherwise eligible for Title XIX or XXI. ( )

**251. SPONSOR DEEMING.**

Income of a legal non-citizen's sponsor and the sponsor's spouse are counted in determining eligibility. ( )

**252. SPONSOR RESPONSIBILITY.**

Section 213 of the Immigration and Naturalization Act requires that a sponsor signing Form I-864, Affidavit of Support, reimburse the Department for Health Care Assistance benefits paid for a sponsored, qualified non-citizen. ( )

~~**253. -- 269. (RESERVED)**~~

**270. SOCIAL SECURITY NUMBER (SSN) REQUIREMENT.**

**01. SSN Required.** An applicant must provide ~~his social security number~~ their (SSN), or proof ~~he has~~ they have applied for an SSN, to the Department before approval of eligibility. If the applicant has more than one (1) SSN, all numbers must be provided. (3-17-22)( )

**a.** The SSN must be verified by the Social Security Administration (SSA) electronically. When an SSN is unverified, the applicant is not eligible for Health Care Assistance. ( )

**b.** The Department ~~must~~ will notify the applicant in writing if eligibility is being denied or lost for

failure to meet the SSN requirement. (3-17-22)( )

**02. Application for SSN.** The applicant must apply for an SSN, or a duplicate SSN when ~~he~~ they cannot provide ~~his~~ their SSN to the Department. If the SSN has been applied for, but not issued by the SSA, the Department can-not deny, delay, or stop benefits. The Department will help an applicant with required documentation when the applicant applies for an SSN. (3-17-22)( )

**03. Failure to Apply for SSN.** The applicant may be granted good cause for failure to apply for an SSN if they have a well-established religious objection to applying for an SSN. A well-established religious objection means the applicant: ( )

- a. Is a member of a recognized religious sect or division of the sect; and ( )
- b. Adheres to the tenets or teachings of the sect, or division of the sect, and for that reason is conscientiously opposed to applying for or using a national identification number. ( )

**04. SSN Requirement Waived.** An applicant may have the SSN requirement waived when ~~he is~~ they are: (3-17-22)( )

- a. Only eligible for emergency medical services ~~as described in~~ under Section 250 of these rules; or (3-17-22)( )
- b. A newborn deemed eligible child ~~as described in~~ under Section 530 of these rules. (3-17-22)( )

**271. -- 279. (RESERVED)**

**280. GROUP HEALTH PLAN ENROLLMENT.**

Title XIX and Title XXI participants must apply for and enroll in a cost-effective group health plan if one is available. A cost-effective health plan is one which has premiums and co-payments at a lower cost than Medicaid would pay for full medical services. Medicaid will pay premiums and other co-payments for plans the Department finds cost-effective. ( )

**281. MEDICAL EXCEPTION FOR INMATES.**

An inmate can receive Medicaid while they are an inpatient in a medical facility. ~~The inmate,~~ and must meet all Medicaid eligibility requirements. (3-17-22)( )

**282. -- 289. (RESERVED)**

**290. ASSIGNMENT OF RIGHTS TO MEDICAL SUPPORT AND THIRD-PARTY LIABILITY.**

~~By operation of~~ Under Sections 56-203B and 56-209b(3), Idaho Code, medical support rights are assigned to the Department by signature on the application for assistance. The participant must cooperate to secure medical support from any liable third-party. The cooperation requirement may be waived if the participant has good cause for not cooperating. (3-17-22)( )

**291. MEDICAL SUPPORT COOPERATION.**

A Medicaid participant responsible for assigning their rights to medical support must cooperate to identify and locate the noncustodial parent, establish paternity, and establish, modify, and enforce a medical support order. ( )

**01. Cooperation Defined.** Cooperation includes providing all information to identify and locate the non-custodial parent; and identifying ing other liable third party-payers. The participant must provide the first and last name of the non-custodial parent. ~~The participant must also provide,~~ and at least two (2) of the following pieces of information about the non-custodial parent: (3-17-22)( )

- a. Birth-date; (3-17-22)( )
- b. ~~Social Security Number~~ SSN; (3-17-22)( )

- c. Current address; ( )
  - d. Current phone number; ( )
  - e. Current employer; ( )
  - f. Make, model, and license number of any motor vehicle owned by the non-custodial parent; or ( )
  - g. Names, phone numbers, and addresses of the parents of the non-custodial parent. ( )
- 02. Good Cause Defined.** The participant may claim good cause for failure to cooperate in securing medical support for a minor child. Good cause is limited to the following reasons: (3-17-22)( )
- a. ~~There is p~~Proof the child was conceived ~~as a result~~ because of incest or rape; (3-17-22)( )
  - b. ~~There is p~~Proof the child's non-custodial parent may inflict physical or emotional harm to the participant, the child, the custodial parent, or the caretaker relative; (3-17-22)( )
  - c. A credible explanation is provided showing the participant cannot provide the minimum information regarding the non-custodial parent; or ( )
  - d. A participant who has good cause for not cooperating ~~as described in~~ under Subsection 291.03.b of this rule. (3-17-22)( )
- 03. Conditions for Non-Denial of Medicaid.** Medicaid cannot be denied for individuals who meet one (1) of the following conditions: ( )
- a. A child or unmarried minor child who cannot legally assign ~~his~~ their rights to medical support; or (3-17-22)( )
  - b. A pregnant woman whose income is at or below the ~~federal poverty guideline~~ FPG, and who does not cooperate in establishing paternity and obtaining medical support from, or derived from, the father of the unborn child. (3-17-22)( )

292. -- 295. (RESERVED)

**296. COOPERATION WITH THE QUALITY CONTROL PROCESS.**

When the Department or federal government selects a case for review in the quality control process, the participant must cooperate in the review of the case. ( )

297. -- 299. (RESERVED)

**FINANCIAL REQUIREMENTS  
(Sections 300-344)**

**300. HOUSEHOLD COMPOSITION AND FINANCIAL RESPONSIBILITY.**

Household composition and financial responsibility are divided into two (2) categories: tax-filing and non-tax filing households. (3-17-22)( )

**301. TAX FILING HOUSEHOLD.**

**01. Taxpayers.** For an individual filing a federal tax return for the taxable year in which an initial determination or redetermination of eligibility is made, and who is not claimed as a tax dependent by another taxpayer, the tax filing household consists of the taxpayer, the taxpayer's spouse, and the taxpayer's tax dependents. ( )

**02. Individuals Claimed as a Tax-Dependent.** For an individual who is claimed as a tax dependent by another taxpayer, the tax filing household is the household of the taxpayer claiming such individual as a tax dependent, ~~with the exception that~~ except when tax dependents meeting any of the following criteria will be treated as non-filers ~~described in under~~ Section 302 of these rules. Individuals: (3-17-22)( )

- a. ~~Individuals e~~Claimed as a tax dependent by an individual other than a spouse or custodial parent; (3-17-22)( )
- b. ~~Individuals u~~Under age nineteen (19) living with both parents, if the parents are not married, or married filing separately; and (3-17-22)( )
- c. ~~Individuals u~~Under age nineteen (19) claimed as a tax dependent by a parent residing outside of the applicant household. (3-17-22)( )

**03. Married Couples.** For married couples living together, each spouse is included in the household of the other spouse, regardless of whether a joint federal tax return is filed, if one (1) spouse is claimed as a tax dependent by the other spouse, or if each filed separately. ( )

**302. NON-TAX FILING HOUSEHOLD.**

**01. Individuals Not Filing a Tax Return and Not Claimed as a Tax Dependent.** For an individual who does not expect to file a federal tax return and is not claimed as a tax dependent by a tax filer, or meets one (1) of the exceptions in ~~Subsections 301.02.a. through 301.02.c. of these~~ this rules, the household consists of the individual and, if living with the individual the following: (3-17-22)( )

- a. The individual's spouse; ( )
- b. The individual's natural, adopted, and stepchildren under age nineteen (19); or ( )
- c. ~~In the case of~~ if individuals are under age nineteen (19), the individual's natural, adopted, and step parents and natural, adoptive, and step siblings under age nineteen (19). (3-17-22)( )

**02. Married Couples.** Married couples living together will be included in the household of the other spouse. ( )

**303. -- 344. (RESERVED)**

**INCOME**  
**(Sections 345-394)**

**345. HOUSEHOLD INCOME.**

The sum of calculated ~~Modified Adjusted Gross Income~~ (MAGI-based income) of every individual whose income must be included in the household budget minus a standard disregard in the amount of five percent (5%) of ~~F~~ federal ~~P~~poverty ~~G~~uidelines (~~FPG~~) by family size, if the disregard is used to establish eligibility. (3-17-22)( )

**346. DETERMINING INCOME ELIGIBILITY.**

Financial eligibility for Medicaid applicants ~~must~~ will be based on calculated monthly household income and household size. Eligibility for Health Care Assistance is determined by comparing the individual's calculated income against the income limit. (3-17-22)( )

**347. EARNED INCOME.**

Earned income is derived from labor or active participation in a business. Earned income includes taxable wages, tips, salary, commissions, bonuses, self-employment, and any other type of income defined as earnings by the Internal Revenue Service (IRS). Earned income is counted as income when it is received, or would have been received, except for the decision of the participant to postpone receipt. Earnings over a period of time and paid at one (1) time, such as the sale of farm crops, livestock, or poultry are annualized, and IRS-allowable self-employment expenses deducted.

(3-17-22)( )

**348. DEPENDENT CHILD'S EARNED INCOME.**

A dependent child's earned income is excluded, unless the child is required to file a tax return based on his own income. ( )

**349. (RESERVED)**

**350. IN-KIND INCOME.**

An individual who receives a service, benefit, or durable goods instead of wages is earning in-kind income. In-kind income is excluded. ( )

**351. SELF-EMPLOYMENT EARNED INCOME.**

Income from self-employment is treated as earned income. Calculated self-employment income is the taxable self-employment income after gross receipts and the IRS allowable costs of producing the self-employment income, when the self-employment is expected to continue ~~as provided in~~ under Title 26, U.S.C. (3-17-22)( )

**352. -- 369. (RESERVED)**

**370. UNEARNED INCOME.**

Unearned income is any income the individual receives that is not gained through employment. Unearned income is not excluded income if it is taxable. ( )

**371. -- 383. (RESERVED)**

**384. LUMP SUM INCOME.**

A non-recurring lump sum payment is income in the month the lump sum is received. Lump sum income is a retroactive monthly benefit or a windfall payment. The lump sum may be earned or unearned income that is paid in a single sum. Lump sum income includes retirement, survivors, and disability insurance (RSDI), severance pay, disability insurance, and lottery winnings. ( )

**385. -- 387. (RESERVED)**

**388. DEPENDENT CHILD'S UNEARNED INCOME.**

A child's unearned income is countable towards ~~his~~ their household's eligibility, only when the child must file a tax return based on ~~his~~ their own income. (3-17-22)( )

**389. -- 394. (RESERVED)**

**DISREGARDS**  
**(Section 395-399)**

**395. INCOME DISREGARDS.**

A standard disregard in the amount of five percent (5%) of ~~F~~ederal ~~P~~overty ~~G~~uidelines ~~(FPG)~~ by family size is applied to the calculated income of an individual in those situations where the application of the disregard is necessary in order for the individual to be eligible for the highest income limit ~~H~~health ~~C~~are coverage for which they may be eligible. (3-17-22)( )

**396. -- 399. (RESERVED)**

**HEALTH COVERAGE FOR ADULTS**  
**(Sections 400-499)**

**400. MEDICAID FOR ADULTS.**

Medicaid is available for the following adults: ( )



- 01. Parent, Caretaker Relative, or a Pregnant Woman.** ~~The individual who:~~ (3-17-22)( )
- a. ~~The individual who is~~ a parent, caretaker relative, or a pregnant woman in the household budget unit. (3-17-22)( )
- b. ~~The individual who is~~ responsible for an eligible dependent child, which includes the unborn child of a pregnant woman. (3-17-22)( )
- c. ~~The individual who lives~~ in the same household with the eligible dependent child. (3-17-22)( )
- 02. Adults Under Age 65.** The individual must: ( )
- a. Be age nineteen (19) or older and under age sixty-five (65); ( )
- b. Not entitled to or enrolled in Medicare Part A or Part B; and- (3-17-22)( )
- c. Not otherwise eligible for any other coverage under the State Plan. ( )
- 03. MAGI Income Eligibility.** For any of the eligibility groups ~~described in~~ under Subsections 400.01 and 02, the individual must meet all income requirements of the Medicaid program for eligibility determined ~~according to~~ under MAGI methodologies identified in Sections 300 through 303, and 411 of these rules. Eligibility is based on: (3-17-22)( )
- a. The number of members included in the household budget unit; ( )
- b. All countable income for the household budget unit; and ( )
- c. Eligible individuals will have income calculated using their ~~modified adjusted gross income~~ (MAGI). Individuals with MAGI not greater than one hundred thirty-three per cent (133%) after applying a five per cent (5%) disregard to income are eligible to receive Medicaid in this ~~section~~ rule. (3-17-22)( )
- 04. Member of More Than One Budget Unit.** No person may receive benefits in more than one (1) budget unit during the same month. ( )
- 05. More Than One Medicaid Budget Unit in Home.** If there is more than one (1) Medicaid budget unit in a home, each budget unit is considered a separate unit. ( )

**401. -- 410. (RESERVED)**

**411. INCOME LIMITS FOR PARENTS AND CARETAKER RELATIVES.**

The income limits are based on the number of household budget unit members. Parents and caretaker relatives, whose MAGI-based income does not exceed the guidelines listed in the table below for their household size, meet the income limit for parent and caretaker relative Medicaid.

TABLE 411 INCOME LIMITS	
Number of Household Members	Income Limit
1	\$233
2	\$289
3	\$365
4	\$439
5	\$515

TABLE 411 INCOME LIMITS	
Number of Household Members	Income Limit
6	\$590
7	\$666
8	\$741
9	\$816
10	\$982
Over 10 Persons	Add \$75 Each

( )

412. -- 418. (RESERVED)

419. TRANSITIONAL MEDICAID FOR **PARENT CARETAKER ADULTS**.

Participants who no longer qualify for Medicaid due to an increase in earned income or working hours are eligible for an additional twelve (12) months of Medicaid. Participants must have been eligible for Medicaid during at least three (3) of the six (6) months immediately preceding the month in which the participant became ineligible.

(3-17-22)( )

420. EXTENDED MEDICAID FOR SPOUSAL **PARENT CARETAKER SUPPORT INCREASE**.

Participants are eligible for four (4) calendar months of Extended Medicaid if an increase in the participant's spousal support causes them to exceed the income limit for their household budget unit size. The participant must have received Medicaid in Idaho in at least three (3) of the six (6) months before the month the participant became income ineligible.

(3-17-22)( )

421. PREGNANT WOMAN INELIGIBLE BECAUSE OF EXCESS INCOME.

A pregnant woman who receives ~~h~~Health ~~e~~Care ~~a~~Assistance and becomes ineligible because of an increase in income will continue to receive coverage through the end of the month in which the sixtieth day of her postpartum period falls.

(3-17-22)( )

422. -- 519. (RESERVED)

HEALTH COVERAGE FOR CHILDREN  
 (Sections 520-529)

520. FINANCIAL ELIGIBILITY.

Children are eligible for Health Care Assistance when the household's total MAGI-~~B~~based income minus a standard disregard in the amount of five percent (5%) of ~~Federal Poverty Guidelines (FPG)~~ by family size is less than or equal to the applicable income limit for the age of the child.

(3-17-22)( )

01. **Title XIX Income Limit.** For children age zero (0) to six (6), Title XIX income limit is one hundred forty-two percent (142%) of the FPG for the household size. For children age six (6) through age eighteen (18) the income limit is one hundred thirty three percent (133%) of the FPG for the household size. ( )

02. **Title XXI Income Limit.** For children age zero (0) to six (6), Title XXI income limit is between one hundred forty-two percent (142%) and one hundred eighty-five percent (185%) of the FPG for the household size. For children ages six (6) through eighteen (18) the income limit is between one hundred thirty-three percent (133%) and one hundred eighty five percent (185%) of the FPG for the household size.

(3-17-22)( )

03. **Disregard Applied.** A standard disregard in the amount of five percent (5%) of ~~Federal Poverty Guidelines (FPG)~~ by family size is applied to the calculated income used to establish the child's eligibility when applying the disregard is necessary for the child to be financially eligible.

(3-17-22)( )

**521. HOUSEHOLD SIZE AND FINANCIAL RESPONSIBILITY.**

Household size and financial responsibility for health coverage for children is determined using the methodology ~~described in~~ under Section 300 of these rules. (3-17-22)( )

**522. (RESERVED)**

**523. ACCESS TO OR COVERAGE UNDER OTHER HEALTH PLANS.**

A child is ineligible for coverage under the CHIP plan if they have access to or are enrolled in other health coverage plans as described below: ( )

**01. Covered by Creditable Health Insurance.** The child is covered by creditable health insurance at the time of application. ( )

**02. ~~Child is Eligible for under Idaho's Title XIX State Plan.~~ Child is Eligible for under Idaho's Title XIX State Plan.** ~~The child is eligible under Idaho's Title XIX State Plan.~~ (3-17-22)( )

**03. Idaho State Employee Benefit Plan.** The child is eligible to receive health insurance benefits under Idaho's State employee benefit plan. ( )

**524. CONTINUOUS HEALTH CARE ASSISTANCE ELIGIBILITY FOR CHILDREN UNDER AGE NINETEEN.**

Children under age nineteen (19), who are found eligible for health coverage in an initial determination or at renewal, remain eligible for a period of twelve (12) months. The twelve (12) month continuous eligibility period does not apply if, for any reason, eligibility was determined incorrectly. ( )

**01. Reasons Continuous Eligibility Ends.** ~~Continuous eligibility for children ends for one (1) of the following reasons:~~ (3-17-22)( )

- a. The child is no longer an Idaho resident; ( )
- b. The child dies; ( )
- c. The participant requests closure; or ( )
- d. The child turns nineteen (19) years ~~of age as defined in~~ old under Subsection 010.05 of these rules. (3-17-22)( )

**02. Reasons Children are Not Eligible for Continuous Eligibility.** ~~Children are not eligible for continuous eligibility for one (1) of the following reasons:~~ (3-17-22)( )

- a. A child is approved for emergency medical services; or ( )
- b. A child is approved for pregnancy-related services. ( )

**525. FORMER FOSTER CHILD.**

An individual who is between the age of eighteen (18) and twenty-six (26), who was in foster care ~~in Idaho~~ and became ineligible for Medicaid as a foster child due to age, may receive Medicaid coverage until ~~his~~ their twenty-sixth birthday. There are no financial eligibility criteria. The only non-financial criteria are the receipt of foster care services and age. (3-17-22)( )

**526. -- 529. (RESERVED)**

**SPECIAL CIRCUMSTANCES FOR CHILDREN**  
**(Sections 530-549)**

**530. NEWBORN CHILD DEEMED ELIGIBLE FOR MEDICAID.**

A child is deemed eligible for Medicaid for ~~his~~ their first year of life when the following exists. (3-17-22)( )

**01. Mother Filing an Application.** The child is born to a mother who files an application for medical assistance. ( )

**02. Mother Is Eligible for Medicaid.** The mother is eligible for Medicaid in the newborn's birth month, including a month of retroactive coverage. This includes a mother who qualifies for coverage only for the delivery because of her alien status. ( )

**531. MINOR PARENT LIVING WITH PARENTS.**

A minor parent is a child under the age of eighteen (18) who is pregnant or has a child. Minor parents who live with their parents may be eligible for Health Care Assistance for themselves and their children. The minor parent's eligibility is determined ~~according to the~~ under Section 300 of these rules related to tax filing households. (3-17-22)( )

**532. RESIDENT OF AN ELIGIBLE INSTITUTION.**

A resident of an eligible institution must meet all non-financial and financial criteria of Title XIX, Title XXI, or any other applicable program. (3-17-22)( )

**533. CHILDREN WITH SPECIAL CIRCUMSTANCES AND MEDICAID.**

Children who receive foster care or are in adoptive placements are eligible for Medicaid. The children must meet non-financial criteria and ~~must meet~~ the financial requirements described for the children's coverage group. (3-17-22)( )

**534. (RESERVED)**

**535. TITLE IV-E FOSTER CARE CHILD.**

A child may be eligible for Medicaid under the Title IV-E foster care program if they meet the eligibility requirements in IDAPA 16.06.01, "Child and Family Services," Section 425. ( )

**536. -- 539. (RESERVED)**

**540. YOUTH EMPOWERMENT SERVICES (YES) PROGRAM CHILDREN.**

**01. Payments for Children Under Eighteen (18) Years ~~of Age~~ Old with SED.** ~~In accordance with~~ Under Section 56-254(2), Idaho Code, the Department will make payments for medical assistance for a child under eighteen (18) years ~~of age~~ old with serious emotional disturbance (SED), as defined in Section 16-2403, Idaho Code, and verified by an independent assessment: (3-17-22)( )

**a.** Whose family income does not exceed three hundred percent (300%) of the ~~federal poverty guideline~~ (FPG) as determined using MAGI-based eligibility standards; or (3-17-22)( )

**b.** Who meets other Title XIX Medicaid eligibility standards ~~in accordance with~~ under the rules of the Department. (3-17-22)( )

**02. Youth Empowerment Services (YES) Benefits.** Applicants whose family income is equal to or less than three hundred percent (300%) of the ~~Federal Poverty Guidelines~~ (FPG) for children zero (0) to eighteen (18) years ~~of age~~ old and who meet the non-financial eligibility criteria in Sections 200 through 299 of these rules may receive the following benefits: (3-17-22)( )

**a.** ~~Youth Empowerment Services~~ (YES) State Plan option services and supports ~~described in~~ under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 635 through 638; and (3-17-22)( )

**b.** Additional covered services ~~set forth in~~ under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 075 through 799. (3-17-22)( )

**03. Additional Eligibility Criteria and Program Requirements for YES.** Additional eligibility

criteria and program requirements applicable to the ~~Youth Empowerment Services (YES)~~ State Plan option are described in under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 635 through 638. (3-17-22)( )

**541. -- 544. (RESERVED)**

**545. PRESUMPTIVE ELIGIBILITY FOR CHILDREN AND ADULTS.**

Presumptive eligibility determination for qualifying medical coverage groups can only be provided by a qualified hospital defined in Section 011 of these rules. (3-17-22)( )

**01. Presumptive Eligibility Decisions.** Decisions of presumptive eligibility can be made for individuals who meet program requirements for MAGI-based Medicaid coverage. (3-17-22)( )

**02. Presumptive Eligibility Determination.** Presumptive eligibility determinations are made by a qualified hospital when an individual receiving medical services is not covered by health care insurance and the financial assessment by hospital staff indicates the individual is eligible for Medicaid coverage in Idaho. This determination is made by hospital staff through an online presumptive application process: (3-17-22)( )

**a.** Prior to completion of a full Medicaid application; and ( )

**b.** Prior to a determination being made by the Department on the full application. ( )

**03. Presumptive Eligibility Period.** The presumptive eligibility period begins on the date the presumptive application is filed online and ends with the earlier of the following: ( )

**a.** The date the full eligibility determination is completed by the Department; or ( )

**b.** The end of the month after the month the qualified hospital completed the presumptive eligibility determination. ( )

**546. QUALIFIED HOSPITAL PRESUMPTIVE ELIGIBILITY PROCESSES.**

A qualified hospital must have a Memorandum of Understanding (MOU) with the Department and follow all standards and processes agreed to in the MOU. ( )

**01. Acceptance of Application.** The qualified hospital accepts the request for services in the same manner as all applications for assistance are accepted. ( )

**02. Standards and Processes.** The presumptive eligibility determination must be based on standards and processes provided by the Department. ( )

**03. Assistance to Applicant.** The qualified hospital must assist the applicant in completing the Department's application process. ( )

**04. Qualified Hospital Staff.** Only qualified hospital staff who are trained in presumptive eligibility standards can make a presumptive eligibility determination. ( )

**05. Notice to Applicant.** The qualified hospital or the Department will provide notice to the applicant within two (2) business days on the presumptive eligibility determination. (3-17-22)( )

**06. Notice and Hearing Rights.** Presumptive eligibility decisions are not appealable and do not have hearing rights under the Title XIX Medicaid program. ( )

**07. Number of Presumptive Eligibility Periods Allowed.** Only one (1) presumptive eligibility period is allowed per applicant in any twelve (12) month period. ( )

**547. -- 599. (RESERVED)**

CASE MAINTENANCE REQUIREMENTS  
(Sections 600-701)

**600. ANNUAL ELIGIBILITY RENEWAL.**

Participants must have an annual eligibility review of all eligibility factors. Exceptions to the annual eligibility renewal are listed in Section 601 of these rules. ( )

**01. Continuing Eligibility.** ~~Continuing eligibility is~~ determined using available electronic verification sources without participant contact, unless ~~information:~~ (3-17-22)( )

a. ~~Information is~~ not available; (3-17-22)( )

b. ~~Information sources~~ provide conflicting information; or (3-17-22)( )

c. ~~Information is~~ inconsistent with information provided by the participant. (3-17-22)( )

**02. Inconsistency Impacts Eligibility.** When inconsistency exists from electronic verification sources that impact participant eligibility, information must be verified by the participant. The Department provides the participant a document that displays household information currently being used to establish eligibility and asks the participant to verify correctness, and if not correct to provide updated information. ( )

**601. EXCEPTIONS TO ANNUAL RENEWAL.**

A participant who receives Title XIX or Title XXI through time-limited coverage does not require an annual renewal when the following exists. ( )

**01. Extended Medicaid.** A participant who receives extended Medicaid is eligible ~~as provided in~~ under Section 420 of these rules. (3-17-22)( )

**02. Pregnant Woman.** ~~A participant who receives Medicaid as a Low Income Pregnant Woman is eligible as provided in Section 500 of these rules. A pregnant woman of any age is eligible for the Pregnant Woman coverage if she meets all the non-financial and financial criteria of the coverage group. Health care assistance for Pregnant Woman coverage is limited to pregnancy-related and postpartum services. The Pregnant Woman medical assistance coverage extends through the sixty (60) day postpartum period if she applied for medical assistance while pregnant and was receiving medical assistance when the child was born. An individual who applies for Pregnant Woman medical assistance after the child is born is not eligible for the sixty-day (60) postpartum period.~~ (3-17-22)( )

**03. Newborn Child of Medicaid-Eligible Mother.** A participant receiving Medicaid as the newborn child of a Medicaid-eligible mother is eligible ~~as provided in~~ under Section 530 of these rules. (3-17-22)( )

**602. -- 609. (RESERVED)**

**610. REPORTING REQUIREMENTS.**

Changes in family circumstances must be reported to the Department by the tenth of the month following the month in which the change occurred. Report of changes may be made verbally, in writing, through personal contact, telephone, fax, electronic mail, or mail. ( )

**611. TYPES OF CHANGES THAT MUST BE REPORTED.**

Changes in circumstances the participant must report are the following: ( )

**01. Name or Address.** A name change for any participant ~~must be reported.~~ A or a change of address or location ~~must be reported.~~ (3-17-22)( )

**02. Household Composition.** Changes in family composition ~~must be reported~~ if a parent or relative caretaker receives Medicaid. (3-17-22)( )

**03. Marital Status.** Marriages or divorces of any family member ~~must be reported~~ if a parent or

relative caretaker receives Medicaid. (3-17-22)( )

**04. New ~~Social Security Number~~ SSN.** A Social Security Number (SSN) that is newly assigned to a Medicaid Health Care Assistance program participant ~~must be reported.~~ (3-17-22)( )

**05. Health Insurance Coverage.** Enrollment or disenrollment of a participant in a health insurance plan ~~must be reported.~~ (3-17-22)( )

**06. End of Pregnancy.** Pregnant participants must report when pregnancy ends. ( )

**07. Earned Income.** Changes in the amount or source of earned income ~~must be reported~~ if a parent or relative caretaker receives Title XIX benefits. (3-17-22)( )

**08. Unearned Income.** Changes in the amount or source of unearned income ~~must be reported~~ if a parent or relative caretaker receives Title XIX benefits. (3-17-22)( )

**09. Support Income.** Changes in the amount of spousal support received by an adult household member. ( )

**10. Disability.** A family member who becomes disabled or is no longer disabled ~~must be reported~~ if a parent or relative caretaker receives Title XIX benefits. (3-17-22)( )

**612. -- 619. (RESERVED)**

**620. NOTICE OF CHANGES IN ELIGIBILITY.**

The Department will notify the participant of changes in ~~his~~ their Health Care Assistance. The notice must give the effective date, the reason for the action, the rule that supports the action, and appeal rights. (3-17-22)( )

**621. NOTICE OF CHANGE OF PLAN.**

The Department ~~is allowed to~~ can switch a participant from the Medicaid Basic Plan to the Medicaid Enhanced pPlan within the same month. Advance notice must be given to the participant when there is a decrease in their benefits and ~~he~~ they will be switched from the ~~e~~Enhanced pPlan to the ~~b~~Basic pPlan. (3-17-22)( )

**622. ADVANCE NOTICE RESPONSIBILITY.**

The Department must notify the participant at least ten (10) calendar days before the effective date ~~of~~ when a reported change results in Health Care Assistance closure. ~~The effective date must allow for a five (5) day mailing period for any notice.~~ (3-17-22)( )

**623. ADVANCE NOTICE NOT REQUIRED.**

Advance notice is not required when a condition ~~listed in Subsections 623.01 through 623.08 of~~ under this rule exists. The participant ~~must~~ will be notified no later than the date of the action. (3-17-22)( )

**01. ~~Death of~~ The Department has Proof of the Participant's Death. ~~The Department has proof of the participant's death.~~ (3-17-22)( )**

**02. The Participant Requests Closure in Writing. ~~The participant requests closure in writing.~~ (3-17-22)( )**

**03. Participant in Institution.** The participant is admitted or committed to an institution. Further payments to the participant do not qualify for federal financial participation under the ~~s~~State pPlan. (3-17-22)( )

**04. Nursing Care.** The participant is placed in a nursing facility or Intermediate Care Facility for Persons with Intellectual Disabilities (ICF/IID). ( )

**05. The Participant's Address is Unknown. ~~The participant's whereabouts are unknown.~~ (3-17-22)( )**

**06. The Participant is Approved for Medical Assistance in Another State.** ~~A participant is approved for medical assistance in another state.~~ (3-17-22)( )

**07. Eligible One Month.** The participant is eligible for aid only during the calendar month of ~~his~~ their application for aid. (3-17-22)( )

**08. Retroactive Medicaid.** The participant's Title XIX or Title XXI eligibility is for a prior period. ( )

**624. -- 699. (RESERVED)**

**700. OVERPAYMENTS.**

Health Care Assistance overpayments occur when a participant receives benefits during a month ~~he was~~ they were not eligible. (3-17-22)( )

**701. RECOVERY OF OVERPAYMENTS.**

All Health Care Assistance overpayments are subject to recovery. Overpayments are recovered by direct payment from the participant. ( )

**01. Notice of Overpayment.** The participant must be informed of the Health Care Assistance overpayment and appeal rights. ( )

**02. Notice of Recovery.** The participant must be informed when ~~his~~ their Health Care Assistance overpayment is fully recovered. (3-17-22)( )

**702. -- 999. (RESERVED)**



**IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE**

**16.03.02 – SKILLED NURSING FACILITIES**

**DOCKET NO. 16-0302-2301 (ZBR CHAPTER REWRITE)**

**NOTICE OF RULEMAKING – PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 39-1303a, 39-1306, 39-1307, 39-1307A, and 39-1307B, Idaho Code.

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

<b>VIRTUAL TELECONFERENCE Via WebEx</b>
<b>Thursday, September 14, 2023 11:00 a.m. - 12:00 a.m. (MT)</b>
<b>Join from the meeting link</b> <a href="https://idhw.webex.com/idhw/j.php?MTID=m102d0ec5970f1519d63b19ebf0ca56fd">https://idhw.webex.com/idhw/j.php?MTID=m102d0ec5970f1519d63b19ebf0ca56fd</a>
<b>Join by meeting number</b> <b>Meeting number (access code): 2763 693 1417</b> <b>Meeting password: ErJ9Gudc7n7 (37594832 from phones and video systems)</b>
<b>Join by phone</b> <b>+1-415-527-5035 United States Toll</b> <b>+1-303-498-7536 United States Toll (Denver)</b>

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below. Meeting(s) will conclude after 30 minutes if no participants sign in or wish to comment in the meeting.

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

Under [Executive Order 2020-01: Zero-Based Regulation](#), the Department is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. The rule changes are intended to perform a comprehensive review of this chapter by collaborating with the public to streamline or simplify this rule language.

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

This chapter contains no fees or charges.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 3, 2023, Idaho Administrative Bulletin, [Volume 23-5, pages 148 through 149](#).

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

This chapter of rule contains changes to the incorporation by reference materials by adding the following due to the size of these documents and to assure they have the force and effect of law.

- Title 42, Chapter IV, Subchapter G, and Part 483, Public Health, Centers for Medicare & Medicaid Services, Department of Health and Human Services, Standards and Certification, Requirements for States and Long Term Care Facilities.
- Guidelines for Design and Construction of Residential Health, Care, and Support Facilities. Facility Guidelines Institute.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Nate Elkins, 208-334-6626, option #5.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2023.

DATED this 4th day of August, 2023.

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  
[dhwrules@dhw.idaho.gov](mailto:dhwrules@dhw.idaho.gov) email

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0302-2301**  
**(ZBR Chapter Rewrite)**

**16.03.02 – SKILLED NURSING FACILITIES**

**000. LEGAL AUTHORITY.**

~~The Idaho Legislature has delegated to the Board of Health and Welfare the responsibility to establish and enforce rules to promote safe and adequate treatment of individuals within a Skilled Nursing Facility under Sections [39-1303a](#), 39-1306, 39-1307, 39-1307A, and 39-1307B, Idaho Code, [authorize the Board to establish and enforce rules to promote safe and adequate treatment of individuals in Skilled Nursing Facilities.](#) [\(3-17-22\)\( \)](#)~~

**001. TITLE AND SCOPE.**

- 01. Title.** These rules are titled, IDAPA 16, Title 03, Chapter 02, “Skilled Nursing Facilities.” [\(3-17-22\)](#)

~~02. Scope. These rules establish regulations and standards for the provision of adequate care and licensure of Skilled Nursing Facilities in the state of Idaho. These rules are expressly intended for the benefit of all skilled nursing residents. To this end, the Idaho State Board of Health and Welfare may issue variances to these rules under standards and procedures established by the Board. (3-17-22)~~

**0021. WRITTEN INTERPRETATIONS.**

This agency may have written statements that pertain to the interpretations of these rules of this chapter. (3-17-22)( )

**002. INCORPORATION BY REFERENCE.**

The following are incorporated by reference as provided by Section 67-5229(a), Idaho Code, and are available for public review upon request at the Department, 450 W. State Street, Boise, Idaho, 83702 or online for review or purchase as noted below. ( )

**01. Title 42, Chapter IV, Subchapter G, Part 483. Public Health, Centers for Medicare & Medicaid Services, Department of Health and Human Services, Standards and Certification, Requirements for States and Long Term Care Facilities.** August 1, 1989. Online at <https://www.ecfr.gov/current/title-42/chapter-IV/subchapter-G/part-483?toc=1>. ( )

**02. Guidelines for Design and Construction of Residential Health, Care, and Support Facilities.** Facility Guidelines Institute. 2022 Edition, Specific Requirements for Nursing Homes. Available for purchase online at <https://shop.fgiguideelines.org/>. ( )

**003. – 008. (RESERVED)**

**009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.**

~~01. Criminal History and Background Check.~~ A skilled nursing facility (SNF) must complete a criminal history and background check and receive a clearance on employees, volunteers, and contractors hired, recruited, or contracted with after October 1, 2007, who have direct patient access to residents in the skilled nursing facility SNF. A Department check conducted under IDAPA 16.05.06, “Criminal History and Background Checks,” satisfies this requirement. Other criminal history and background checks may be accepted provided they meet the criteria in Subsection 009.02 of this rule and the entity conducting the check issues written findings. The entity must provide a copy of these written findings to both the facility and the employee. The following individuals must receive a background check clearance: (3-17-22)( )

- a. Owners and Corporate Leaders; ( )
- b. Administrators and Designees; ( )
- c. Director of Nursing Services (DNS); ( )
- d. Certified Nursing Assistants (CNA); ( )
- e. Maintenance Director and Maintenance Personnel; ( )
- f. Registered Nurses (RN); ( )
- g. Licensed Practical Nurses (LPN); ( )
- h. Environmental Services Personnel; ( )
- i. Activity Director and Activity Assistants; ( )
- j. Contracted staffing accruing at least twelve (12) hours weekly with direct patient contact; ( )
- k. Volunteers utilized or credentialed by the facility with direct patient contact; ( )

- l. Nursing Assistants; ( )
- m. Hospitality Aides; ( )
- n. Social Services Personnel; ( )
- o. Business Office Personnel; ( )
- p. Therapy Services Personnel; ( )
- q. Registered Dietitians; ( )
- r. Dietary Manager and Dietary Personnel; ( )
- s. Laundry Service Personnel; ( )
- t. Unlicensed Assistive Personnel (UAP); ( )

02. ~~Scope of a Criminal History and Background Check.~~ The ~~criminal history and~~ background check must, ~~at a minimum,~~ be a fingerprint-based criminal history and background check that ~~includes~~ may include a search ~~of from~~ the following ~~record sources:~~ (3-17-22)( )

- a. Federal Bureau of Investigation (FBI); ( )
- b. Idaho State Police Bureau of Criminal Identification; ( )
- c. Any State Sexual Offender Registry; (3-17-22)( )
- d. Any state or federal Child Protection Registry; ( )
- e. Any state or federal Adult Protection Registry. ( )
- df. Office of Inspector General List of Excluded Individuals and Entities; ~~and~~ (3-17-22)( )
- g. Idaho Department of Transportation Driving Records; ( )
- eh. Nurse Aide Registry; ~~and~~ (3-17-22)( )
- i. Records and findings from other states and jurisdictions. ( )

03. **Availability to Work.** Any direct resident access individual hired, retired or contracted with, on or after October 1, 2007, must self-disclose all arrests and convictions before having access to residents. The individual is ~~allowed to can~~ only work under supervision until the ~~criminal history and~~ background check is completed and a clearance received. If a disqualifying crime ~~as described in~~ under IDAPA 16.05.06, "Criminal History and Background Checks," is disclosed, the individual cannot have access to any resident. (3-17-22)( )

04. **Submission of Fingerprints.** The individual's fingerprints must be submitted to the entity conducting the ~~criminal history and~~ background check within twenty-one (21) days of their date of hire, contract, or recruitment. (3-17-22)( )

05. ~~New Criminal History and Background Check.~~ An individual must have a ~~criminal history and~~ background check and clearance when: (3-17-22)( )

- a. Accepting employment, a contract, or a position with a new employer; and (3-17-22)( )
- b. Their last ~~criminal history and~~ background check was completed more than three (3) years prior to

their date of hire, contract, or recruitment. (3-17-22)( )

**06. Use of ~~Criminal History~~ Background Check Within Three Years of Completion.** Any employer may use a previous criminal history and background check obtained under these rules if: (3-17-22)( )

a. The individual has received a ~~criminal history and~~ background check with clearance within three (3) years ~~of preceding~~ their date of hire, contract, or recruitment; (3-17-22)( )

b. The employer has documentation of the ~~criminal history and~~ background check findings; (3-17-22)( )

c. The employer completes a state-only background check of the individual through the Idaho State Police Bureau of Criminal Identification; and ( )

d. No disqualifying crimes are found. ( )

**07. Employer Discretion.** The new employer, at its discretion, may require an individual to complete a ~~criminal history and~~ background check at any time, even if the individual has received a ~~criminal history and~~ background check within the three (3) years ~~of preceding~~ their date of hire, contract, or recruitment. (3-17-22)( )

**010. DEFINITIONS.**

~~For the purposes of these rules the following terms are used, as defined herein:~~ (3-17-22)

**01. Administrator.** The person delegated the responsibility for management of a facility by the legal owner, employed as a full-time administrator in each facility, and licensed by the ~~s~~State of Idaho. The administrator and legal owner may be the same individual. (3-17-22)( )

**02. Advanced Practice Registered Nurse.** ~~An licensed registered nurse RN~~ having specialized skills, knowledge and experience who is authorized under the Idaho Board of Nursing rules to provide certain health services in addition to those performed by ~~licensed~~ registered nurses (R-N). (3-17-22)( )

**03. Board.** The Idaho ~~State~~ Board of Health and Welfare. (3-17-22)( )

**04. Change of Ownership.** The sale, purchase, exchange, or lease of an existing facility by the present owner or operator to a new owner or operator. ( )

**05. Charge Nurse.** One (1) or more licensed nurse(s) who has direct responsibility for nursing services in an operating unit or physical subdivision of a facility during one (1) eight (8)-hour shift, to be provided by ~~herself~~ themselves and by any other licensed nurse or auxiliary personnel under ~~her~~ their immediate charge. (3-17-22)( )

**06. Department.** The Idaho Department of Health and Welfare or its designee. (3-17-22)( )

~~07. Director.~~ ~~The Director of the Department of Health and Welfare or designee.~~ (3-17-22)

~~08. Director of Nursing Services (DNS).~~ ~~An licensed registered nurse RN~~ currently licensed ~~by the~~ state of in Idaho and qualified by training and experience. (3-17-22)( )

~~09. Existing Facility.~~ A nursing home currently licensed. ( )

**09. Governing Body.** Individuals such as facility owner(s), chief executive officer(s), or other individuals who are legally responsible to establish and implement policies regarding the management and operations of the facility. ( )

**10. Governmental Unit.** The ~~s~~State of Idaho, any county, municipality, or other political subdivision, or any department, division, board, or other agency thereof. (3-17-22)( )

11. **Hospital Licensing Act.** The ~~a~~Act set out in ~~under~~ Sections 39-1301 through 39-1314, Idaho Code. (3-17-22)( )
- ~~12. **Licensee.** The person or organization to whom a license is issued. (3-17-22)~~
- ~~13. **Licensing Agency.** The Department of Health and Welfare. (3-17-22)~~
- ~~14. **Licensed Nursing Personnel.** An licensed registered nurse (R.N.) or licensed practical nurse (L.P.N.) currently licensed ~~by the~~ in Idaho ~~State Board of Nursing.~~ (3-17-22)( )~~
- ~~15. **New Construction.** ( )~~
- a. New buildings to be used as a facility. ( )
- b. Additions to existing buildings and/or added bed capacity. ( )
- c. Conversion of existing buildings or portions thereof for use as a facility. ( )
- ~~d. **Unlicensed buildings seeking licensing, federal certification, or both.** ( )~~
- ~~16. **Person.** Any individual, firm, partnership, corporation, company, association, joint stock association, governmental unit, or legal successor thereof. ( )~~
- ~~17. **Pharmacist.** Any person licensed ~~by the Idaho Board of Pharmacy~~ as a licensed pharmacist in Idaho. (3-17-22)( )~~
- ~~18. **Physician.** Any person ~~who holds a~~ licensed ~~issued~~ by the State Idaho Board of Medicine to practice medicine and surgery, osteopathic medicine and surgery, or osteopathic medicine, provided further, that others authorized by law to practice any of the healing arts will not be considered physicians (Section 54-1803(3), Idaho Code). (3-17-22)( )~~
- ~~19. **Resident.** An individual requiring and receiving skilled nursing care and residing in a facility licensed to provide the level of care required. ( )~~
- ~~20. **Skilled Nursing Facility (SNF).** A facility designed to provide area, space, and equipment to meet the health needs of two (2) or more individuals who, ~~at a minimum,~~ require inpatient care and services for twenty-four (24) or more consecutive hours for unstable chronic health problems requiring daily professional nursing supervision and licensed nursing care on a twenty-four (24) hour basis, restorative, rehabilitative care and assistance in meeting daily living needs. Medical supervision is necessary on a regular, but not daily, basis (Section 39-1301, Idaho Code). (3-17-22)( )~~
- ~~21. **Substantial Compliance.** A facility is in substantial compliance with these rules, regulations, and minimum standards when there are no deficiencies that would endanger the health, safety, or welfare of the residents. (3-17-22)( )~~
- ~~22. **Supervising Nurse.** The ~~one (1) licensed nurse designated by the DNS to be responsible for the overall direction and control of all nursing services throughout the entire facility during one (1) eight (8) hour shift.~~ (3-17-22)~~
- ~~20. **Unlicensed Assistive Personnel (UAP).** This term designates 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 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 under 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. ( )~~

**231. Waiver or Variance.** ~~A waiver or variance to these rules and minimum standards in whole or in part that may~~ May be granted under the following conditions: (3-17-22)( )

a. Good cause is shown for such waiver and the health, welfare, or safety of residents will not be endangered by granting such a waiver; (3-17-22)( )

b. Precedent will not be set by granting of such waiver. The waiver may be renewed annually if sufficient written justification is presented to the ~~Licensing Agency~~ Department. (3-17-22)( )

**011. – 049. (RESERVED)**

**050. LICENSURE.**

**01. General Requirements.** Before any person either directly or indirectly operates a facility, they must make an application for and receive a valid license for operation of the facility, and no resident must be admitted or cared for in a facility that is required under Idaho law to be licensed, until a license is obtained. ( )

a. The facility and all related buildings associated with the operation of the facility, as well as all records required under these rules, must always be accessible ~~at any reasonable time~~ to authorized representatives of the Department for the purpose of inspection, with or without prior notice. (3-17-22)( )

b. Before any building is constructed or altered for use as a facility, written approval of construction or alteration of plans must be obtained from the Department. ( )

c. Information received by the ~~licensing agency~~ Department through filed reports, inspection, or as otherwise authorized under this law, must not be disclosed publicly in such a manner as to identify individual residents except in a proceeding involving the question of licensure. Public disclosure of information obtained by the ~~licensing agency~~ Department for the purposes of this law must be governed by these rules, ~~regulations, and minimum standards adopted by the Board~~. (3-17-22)( )

**02. Application for an Initial License.** ~~In addition to obtaining prior approval of plans for construction or alterations, all~~ All persons planning the operation of a facility must provide a Department-approved application for an initial facility license at least three (3) months prior to the planned opening date with the following: (3-17-22)( )

a. Evidence of a request for a determination of applicability for Section 1122 (Social Security Act) regulatory review. ( )

b. A copy of the nursing home administrator's license ~~with the application~~. (3-17-22)( )

c. A certificate of occupancy from the local building and fire authority. ( )

**03. Issuance of License.** Every facility must be designated by a distinctive name in applying for a license, and the name must not be changed without first notifying the Department in writing at least thirty (30) days prior to the date the proposed ~~change in~~ name change is to be effective. (3-17-22)( )

a. Each license will be issued only for the premises and persons ~~or governmental units~~ named in the application and will not be transferable. (3-17-22)( )

b. Each license will specify the maximum allowable number of beds in each facility, which may not be exceeded, except when authorized by the Department on a time-limited emergency basis, ~~and authorized by the Department~~. (3-17-22)( )

c. The facility license must be framed and posted ~~so as~~ to be visible to the general public. (3-17-22)( )

**04. Expiration and Renewal of License.** Each license to operate a facility must, unless sooner suspended or revoked, expire on the date designated on the license. Each application for renewal of a license must be submitted on a Department-prescribed form ~~prescribed by the Department~~ and prior to the ~~renewal~~ expiration date of the current license. (3-17-22)( )

**05. Denial or Revocation of License.** The ~~Director~~ Department may deny the issuance of a license or revoke any license when persuaded by a preponderance of the evidence that ~~such~~ conditions exist ~~as to that~~ endanger the health or safety of any resident, or that the facility is not in substantial compliance with these rules ~~and minimum standards~~. (3-17-22)( )

**a.** Additional causes for denial of a license ~~may include the following~~: (3-17-22)( )

i. The applicant has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a license. ( )

ii. The applicant of the person proposed as the administrator has been guilty of fraud, gross negligence, abuse, assault, battery, or exploitation in relationship to the operation of a health facility. ( )

iii. The applicant or the person proposed as the administrator of the facility: ( )

(1) Has been denied or has had revoked any health facility license; ~~or~~ (3-17-22)( )

(2) Has been convicted of operating any health facility without a license; or ( )

(3) Has been ~~enjoined~~ prohibited from operating a health facility; ~~or~~ shelter home. (3-17-22)( )

(4) Is directly under the control or influence of any person who has been the subject of any proceeding, or the actor in any circumstance, described in Subsection 050.05 of this rule. ( )

**b.** Additional causes for revocation of license: (3-17-22)( )

i. Any act adversely affecting the welfare of residents is being permitted, aided, performed, or abetted by the person ~~or persons(s)~~ in charge of the facility. ~~Such acts may~~ Acts include, but are not limited to, neglect, physical abuse, mental abuse, emotional abuse, violation of civil rights, or exploitation. (3-17-22)( )

ii. Any condition exists in the facility that endangers the health or safety of any resident. ( )

iii. The licensee has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a license. ( )

iv. The ~~applicant~~ licensee or administrator has demonstrated lack of sound judgment in the operation or management of the ~~skilled nursing facility~~ SNF. (3-17-22)( )

~~v. The facility lacks adequate staff to properly care for the number and type of residents residing at the facility.~~ (3-17-22)

vi. The ~~applicant~~ licensee or administrator of the facility: (3-17-22)( )

(1) Has been denied or has had revoked any health facility license; ~~or~~ (3-17-22)( )

(2) Has been convicted of operating any health facility without a license; ~~or~~ (3-17-22)( )

(3) Has been ~~enjoined~~ prohibited from operating a health facility or shelter home; or (3-17-22)( )

(4) Is directly under the control or influence of any person who has been the subject to the of any proceedings, or the actor in any circumstance, described in Subsection 050.05 of this rule. (3-17-22)( )



**06. Change of Facility Ownership, Operator, or Lessee.** When a change of a licensed facility's ownership, operator, or lessee is contemplated, the owner/operator must notify the Department and provide a new application at least thirty (30) days prior to the proposed date of change and new application submitted when there is a change of operator, ownership, or lessee. (3-17-22)( )

**07. Penalty for Operating a Facility or Agency Without a License.** Any person establishing, conducting, managing, or operating any facility or agency as defined, without a license, under Sections 39-1301 through 39-1314, Idaho Code, is guilty of a misdemeanor punishable by imprisonment in a county jail for a period of time not exceeding six (6) months, or by a fine not exceeding three hundred dollars (\$300), or by both, such fine and imprisonment, and each Each day of continuing violation constitutes a separate offense. In the event that If the county prosecuting attorney in the county where the alleged violation occurred fails or refuses to act within sixty (60) days of notification of the violation, the attorney general is authorized to prosecute any violations (under Section 39-1312, Idaho Code). (3-17-22)( )

**051. -- 099. (RESERVED)**

**100. ADMINISTRATION.**

**01. Governing Body.** Each facility must be organized and administered under one (1) authority which may be a proprietorship, partnership, association, corporation, or governmental unit. The following requirements must be met: (3-17-22)( )

**a.** That t The true name and current address for each person or business entity having a five percent (5%) or more direct, or indirect, ownership interest in the facility is supplied to the Department at the time of licensure application or preceding any change in ownership. (3-17-22)( )

**b.** That t The names, addresses, and titles of offices held by all members of the facility's governing authority are submitted to the Department. (3-17-22)( )

**c.** That a A copy of the lease (if a building or buildings are leased to a person or persons(s) to operate as a facility) showing clearly in the context which party to the agreement is to be held responsible for the maintenance and upkeep of the property to meet minimum standards is available for review by the Department. Terms of the financial arrangement may be omitted from the copy of the lease available to the Department. (3-17-22)( )

**02. Administrator.** The governing body, owner, or partnership must appoint an Idaho-licensed nursing home administrator for each facility who is responsible and accountable for carrying out the policies determined by the governing body. In combined hospital and nursing home facilities, the administrator may serve both the hospital and nursing home provided they are currently licensed as a nursing home administrator. The following requirements must be met: (3-17-22)( )

**a.** Each facility must employ an administrator on a full-time basis for day-to-day operations. ( )

**b.** In the absence of the administrator's absence, an individual who is responsible and accountable, and at least twenty-one (21) years of age is to be authorized, in writing, to act in their behalf to assure administrative direction of the facility. (3-17-22)( )

**c.** The administrator is responsible for establishing and assuring the implementation of written policies and procedures for each service offered by the facility, or through arrangements with an outside service. (3-17-22)( )

**d.** The administrator, their relatives, or employees, are not to act as, the legal guardian of, or have power of attorney for, any residents unless specifically adjudicated as such by appropriate legal order. (3-17-22)( )

**e.** The administrator is to provide to the public and the resident an accurate description of the facility services and care. Representation of the facility's services to the public is not to be misleading. ( )

~~e. The administrator is responsible for providing sufficient and qualified staff to carry out all of the basic services offered by the facility. (3-17-22)~~

f. The administrator, owner, and employees of a facility are governed ~~by the provisions of under~~ Section 15-2-616, Idaho Code, concerning the devise or bequest of a resident's property by a last will and testament. (3-17-22)( )

g. The facility will notify the Department within seventy-two (72) hours when there is a change in the administrator because of resignation, transfer, personal/medical emergency, or redundancy. The notification will include the name, contact information, and Idaho license number of the new administrator. ( )

**03. Admission Policies.** ~~The administrator facility~~ must establish written admission policies for all resident admissions and ~~be make a copy~~ available to residents, their relatives, and to the ~~general~~ public. ~~The following requirements must be met: (3-17-22)( )~~

~~a. A history and physical examination is recorded within forty-eight (48) hours after admission to the facility, unless the resident is accompanied by a record of a physical examination completed by a physician not more than five (5) days prior to admission. (3-17-22)~~

~~b. Information upon admission includes the results of a tuberculosis skin test, chest x ray, medical and/or psycho-social diagnosis, physician's plan of care, the resident's activity limitation, and the rehabilitation potential, and are to be dated and signed by the physician. (3-17-22)~~

~~e. No children other than residents are to regularly occupy any portion of the resident living area. (3-17-22)~~

~~d. Reasonable precautions are taken in all admissions for the safety of other residents. (3-17-22)~~

~~e. Nothing in these rules and minimum standards should be construed as to require any facility to compel any person to undergo any medical screening, examination, diagnosis, or treatment or to accept any other health care or services provided under such plan for any purpose (other than for the purpose of discovering and preventing the spread of infection or other contagious disease or for the purpose of protecting environmental health), if such person objects (or, in case such person is a child, their parent or guardian objects), thereto on religious grounds. (3-17-22)~~

**04. Use of Restraints.** ~~The following types of restraints must not be used under any conditions: canvas jackets, canvas sheets, canvas cuffs, leather belts, leather cuffs, leather hand mitts or restraints requiring a lock and key. (3-17-22)~~

**05. Record of Resident's Personal Valuables.** ~~An inventory and proper accounting must be kept for all valuables entrusted to the facility for safekeeping and the status of the inventory is to be available to the resident, their conservator, guardian, or representative for review upon request. (3-17-22)~~

**064. Accident or Injury.** ~~The administrator facility~~ must show evidence of written safety procedures for handling of residents, equipment lifting, and the use of equipment. The following ~~requirements~~ must be met: (3-17-22)

~~a. That an An incident-accident record needs to be kept of all incidents or accidents sustained by employees, residents, or visitors in the facility and that includes the following information: (3-17-22)( )~~

~~ia. Name and address of employee, resident, or visitor; (3-17-22)( )~~

~~ib. A factual description of the incident or accident; ( )~~

~~ic. Description of the condition of the resident, employee, or visitor including any injuries resulting from the accident; and ( )~~

- ~~iv~~**d.** Time and date of notification ~~of to~~ physician, if necessary. (3-17-22)(    )
- ~~b.~~ That the physician is immediately notified regarding any resident injury or accident when there are significant changes requiring intervention or assessment. (3-17-22)
- ~~e.~~ That immediate investigation of the cause of the incident or accident be instituted by the facility administrator and any corrective measures indicated adopted. (3-17-22)
101. -- 104. (RESERVED)
105. PERSONNEL.
- ~~01.~~ **Daily Work Schedules.** Daily work schedules must be maintained that reflect: (3-17-22)
- ~~a.~~ Personnel on duty at any given time for the previous three (3) months; (3-17-22)
- ~~b.~~ The first and last names of each employee, including professional designation (R.N., L.P.N., etc.) and position; and (3-17-22)
- ~~e.~~ Any adjustments made to the schedule. (3-17-22)
- ~~02~~**1.** **Job Description.** ~~Job descriptions must~~ Must be current, on file, and: (3-17-22)(    )
- ~~a.~~ Include the authority, responsibilities, and duties of each classification of personnel; and ( )
- ~~b.~~ Be given to each employee consistent with their classification. ( )
- ~~03~~**2.** **Age Limitations.** Employees, other than licensed personnel, who are less than eighteen (18) years ~~of age~~ old may not provide direct resident care except when employees are students or graduates of a recognized vocational health care training program. (3-17-22)(    )
- ~~04.~~ **Resident Employment.** Whenever work of economic benefit to the facility is performed by a resident, such work will be subject to the provisions prescribed by law for any employee. (3-17-22)
- ~~05.~~ **Employee Health.** Personnel policies relating to employee health must include: (3-17-22)
- ~~a.~~ That the facility establishes, upon hiring a new employee, the current status of a tuberculin skin test. The determination may be based upon a report of the skin test taken prior to employment or within thirty (30) days after employment. If the skin test is positive, either by history or current test, a chest X-ray is taken, or a report of the results of a chest X-ray taken within three (3) months preceding employment and accepted. The TB Skin Test status is recorded and a chest X-ray alone is not a substitute. No subsequent chest X-ray or skin test is required for routine surveillance. (3-17-22)
- ~~b.~~ That a repeat skin test is required if a resident or other staff develop tuberculosis. (3-17-22)
- ~~e.~~ That the facility requires all employees report immediately to their supervisor any signs or symptoms of personal illness. (3-17-22)
- ~~d.~~ That personnel who have a communicable disease, infectious wound, or other transmittable condition and who provide care or services to residents are required to implement protective infection control techniques approved by administration; are not to work until the infectious stage is corrected; are reassigned to a work area where contact with others is not expected and likelihood of transmission of infection is absent; or seeks other remedy to avoid spreading the employee's infection. (3-17-22)
- ~~06~~**3.** **Personnel Files.** ~~Personnel files must~~ Must be kept for each employee containing: (3-17-22)(    )
- ~~a.~~ Name, current address, and telephone number ~~of the employee~~; (3-17-22)(    )

- b. Social security number; ( )
- c. Qualifications for the position for which the ~~employee is~~ are hired, including education and experience; (3-17-22)( )
- d. If an Idaho license is required, verification of current active and unencumbered license; (3-17-22)( )
- e. Position in facility; ( )
- f. Date of employment; ( )
- g. Date of termination and reason; and ( )
- h. Verification of a negative TB ~~skin test upon employment and any subsequent test results.~~ (3-17-22)( )

**106. FIRE AND LIFE SAFETY.**

All F facilities must be maintained, in good repair, structurally sound, equipped to assure safety of residents, employees the public and meet ~~general~~ requirements for the fire and life safety standards for a health care facility as follows: (3-17-22)( )

**01. General Requirements for Fire and Life Standards for a Health Care Facility.** ~~General requirements for the fire and life safety standards for a health care facility are as follows: Where natural or man-made hazards are present, the facility must provide suitable fences, guards, and/or railings to isolate the hazard from the resident's environment.~~ (3-17-22)( )

~~a. The facility must be structurally sound, maintained, and equipped to assure the safety of residents, employees, and the public. (3-17-22)~~

~~b. Where natural or man made hazards are present on the premises, that the facility must provide suitable fences, guards, and/or railings to isolate the hazard from the resident's environment. (3-17-22)~~

**02. Life Safety Code Requirements.** The facility must meet provisions of the Life Safety Code of the National Fire Protection Association, 2012 Edition as are applicable to a health care facility except existing facilities licensed prior to the effective date of these rules and in compliance with a previous edition of the Life Safety Code may continue to comply with the edition in force at that time. (3-17-22)

**032. Smoking.** Because smoking has been acknowledged to be a potential fire hazard, a continuous effort must be made to reduce ~~such a~~ this hazard in the facility to include adopting written rules available to all facility personnel, residents, and the public with the following: (3-17-22)( )

a. ~~That s~~Smoking is prohibited in any area where flammable liquids, gases, or oxygen are in use or stored and any other areas posted with "No Smoking" signs. (3-17-22)( )

b. ~~That r~~Residents are not permitted to smoke in bed. (3-17-22)( )

c. ~~That u~~Unsupervised smoking by residents not mentally or physically responsible is prohibited. This includes residents affected by medication. (3-17-22)( )

d. ~~That d~~Designated areas are assigned for employee, resident, and public smoking. (3-17-22)( )

e. Nothing in ~~Section 106~~ this rule requires that smoking be permitted in facilities whose admission policies prohibit smoking. (3-17-22)( )

**043. Report of Fire.** A separate report of each fire incident occurring within the facility must be

submitted to the ~~licensing agency~~ Department within thirty (30) days of the occurrence. The reporting form "Facility Fire Incident Report" will be issued by the ~~licensing agency~~ Department to secure specific data concerning date, origin, extent of damage, method of extinguishment, and injuries (if any). (3-17-22)( )

**054. Storage, Heating Appliances, Hazardous Substances.** The following requirements must be met: ( )

a. ~~That a~~Attics and crawl spaces are not used for storage of any materials. (3-17-22)( )

b. ~~That r~~Rooms housing heating appliances are not used for storage of combustible materials. (3-17-22)( )

~~e. That all fuel-fired heating devices have an easily accessible, plainly marked, functional remote fuel shut-off valve.~~ (3-17-22)

~~d. That all ranges are provided with hoods, mechanical ventilation, and removable filters.~~ (3-17-22)

**107. DIETARY SERVICE.**

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

~~01. Approved Diet Manual.~~ A current diet manual approved by the Department and available in the kitchen (the Idaho Diet Manual is approved by the Department). (3-17-22)

~~02. Preparation and Correction of Menus.~~ That menus are prepared at least a week in advance and corrected to conform with food actually served (items not served deleted and food actually served written in.) The corrected copy of the menu and diet plan is to be dated and kept on file for thirty (30) days. (3-17-22)

~~03. Variety and Adequacy of Food.~~ That menus provide a sufficient variety of foods in adequate amounts at each meal. Menus are to be different for the same days each week and adjusted for seasonal changes. (3-17-22)

**107. (RESERVED)**

**108. ENVIRONMENTAL SANITATION WATER SUPPLY.**

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

~~01. Water Supply.~~ An approved public or municipal water supply must be used wherever available. ~~An approved public or municipal water supply must be used wherever available.~~ (3-17-22)( )

**02. Private Water Supply.** ( )

a. In areas where an approved public or municipal water supply is not available, a private water supply is provided, and meets the standards approved by the Department. ( )

b. If water is from a private supply, water samples are submitted to the Department through the district public health laboratory for bacteriological examination at least once every three (3) months. ~~Monthly bacteriological examinations are recommended.~~ Copies of the laboratory reports are kept on file in the facility by the administrator. (3-17-22)( )

~~e03. Sufficient Supply of Water.~~ There is Always provide sufficient amount of water under adequate pressure to meet the sanitary requirements of the facility ~~at all times.~~ (3-17-22)( )

~~02. Linen Laundry Facilities.~~ Personal Laundry. Residents' and employees' laundry must be collected, transported, sorted, washed, and dried in a sanitary manner and not be washed with bed linens. Residents' clothing is to be labeled to ensure proper return to the owner. (3-17-22)

**109. -- 119. (RESERVED)**

**120. EXISTING BUILDINGS CONSTRUCTION STANDARDS.**

~~These standards must be applied to all currently licensed health care facilities. Any minor alterations, repairs, and maintenance must meet these standards.~~ All existing buildings must meet the requirements in this rule, and also the standards, guidelines, and requirements contained in the sources incorporated by reference in Section 002 of these rules. In the event of a change in ownership of a facility, the ~~entire~~ facility must meet ~~these standards~~ all requirements prior to issuance of a new license. (3-17-22)( )

~~01. Codes and Standards.~~ Construction features of all existing facilities must be in accordance with applicable local, state, national codes, standards, and regulations in effect at the time of adoption of these rules. (3-17-22)

~~a.~~ In the event of a conflict of requirement between the codes, the most restrictive apply. (3-17-22)

~~b.~~ In addition, existing facilities are to comply with applicable fire and life safety codes and standards as set forth in Section 106. (3-17-22)

~~02.~~ **1. Site Requirements.** The location of an existing facility must ~~meet the following criteria~~ be: (3-17-22)( )

~~a.~~ It must be ~~s~~Served by an all-weather road, always kept open and accessible to motor vehicles ~~at all times of the year.~~ (3-17-22)( )

~~b.~~ It must be accessible to physician and medical services. (3-17-22)

~~c.~~ It must be remote from railroads, factories, airports and similar noise, odor, smoke, dust and other nuisances. (3-17-22)

~~db.~~ It must be A accessible to public utilities. (3-17-22)( )

~~ec.~~ It must be i in a lawfully constituted fire district. (3-17-22)( )

~~fd.~~ It must ~~provide~~ Providing off-street motor vehicle parking at the rate of one (1) space for every three (3) licensed beds. (3-17-22)( )

~~03.~~ **2. General Building Requirements.** An existing facility must be of such character to be suitable for use as a facility. The facility is subject to approval by the Department. Other requirements are ~~as follows~~ below: (3-17-22)( )

~~a.~~ That the building and all equipment are in good repair. (3-17-22)

~~b.~~ That handrails of sturdy construction are provided on both sides of all corridors used by residents. (3-17-22)

~~ea.~~ That ~~n~~ No facility is maintained in an apartment house or other multiple dwelling. (3-17-22)( )

~~db.~~ That ~~r~~ Roomers or boarders are not accepted for lodging in any facility. (3-17-22)( )

~~04. Resident/Staff Communication.~~ Requirements governing communication must be as follows: (3-17-22)

~~ac.~~ That ~~e~~ Each building has a telephone for resident use so located as to provide wheelchair access for personal, private telephone communications. A telephone with amplifying equipment is available for the hearing impaired. (3-17-22)( )

~~bd.~~ That ~~a~~ A staff calling system is installed at each resident bed and in each resident toilet, bath, and shower room. The staff call in the toilet, bath, or shower room must be an emergency call. All calls are to register at

the staff station and actuate a visible signal in the corridor at the resident's door. The activating mechanism within the resident's sleeping room is to be located as readily accessible to the resident at all times. (3-17-22)( )

**053. Resident Accommodations.** ~~Accommodations for the residents of the facility must include the~~ Must include the following: (3-17-22)( )

~~a. That e~~ Each resident room is an outside room. (3-17-22)( )

~~b. That not more than four (4) residents can be housed in any multi-bed sleeping room.~~ (3-17-22)

~~eb. That e~~ Every resident sleeping room is provided with a window as follows: (3-17-22)( )

i. Equal to at least one-eighth (1/8) of the floor area. ( )

ii. ~~Openable~~ Operable to obtain fresh air. (3-17-22)( )

iii. Provided with curtains, drapes, or shades. ( )

iv. Located to permit the resident a view from a sitting position. ( )

v. Has screens. ( )

~~dc. No resident room can be located:~~ ( )

~~i. In such a way that its outside walls are below grade.~~ (3-17-22)

~~ii. In an attic, trailer house or in any room other than an approved room.~~ (3-17-22)

~~iii. So it can be reached only by passing through another individual's room, a utility room, or any other room.~~ ( )

~~iv. i. So it opens into any room in which food is prepared or stored.~~ ( )

~~e. That resident rooms are a sufficient size to allow no less than eighty (80) square feet of usable floor space per resident in multiple bed rooms. Private rooms will have no less than one hundred (100) square feet of usable floor space.~~ (3-17-22)

~~fd. That r~~ Resident beds are not placed in hallways or in any location commonly used for other than bedroom purposes. (3-17-22)( )

~~g. That rooms have dimensions that allow no less than three (3) feet between beds and two (2) feet of space between the bed and side wall.~~ (3-17-22)

~~he. That e~~ Ceiling heights in resident rooms are a minimum of seven (7) feet, six (6) inches. (3-17-22)( )

~~i. That closet space in each sleeping room is twenty (20) inches by twenty two (22) inches per resident. Common closets utilized by two (2) or more residents are provided with substantial dividers for separation of each resident's clothing for prevention of cross-contamination. All closets are equipped with doors. Freestanding closets will be deducted from the square footage in the sleeping room.~~ (3-17-22)

~~j. That every health care facility provides a living room or recreation room for the sole use of the residents. Under no circumstances may these rooms be used as bedrooms by residents or personnel. A hall or entry is not acceptable as a living room or recreation room.~~ (3-17-22)

~~kf. That a~~ All resident rooms are numbered and all other rooms numbered or identified as to purpose. (3-17-22)( )

~~l.~~ That a drinking fountain is connected to cold running water, is accessible to both wheelchair and non-wheelchair residents, and located in each nursing or staff unit. (3-17-22)

~~m.~~ That residents of the opposite sex are not housed in the same bedroom or ward, except in cases of husband and wife. (3-17-22)

~~ng.~~ That ~~g~~Gardens, yards, or portions of yards are secure for outdoor use by all residents and bounded by a substantial enclosure if intended for unsupervised use by residents who may wander away from the facility. (3-17-22)( )

~~oh.~~ That ~~t~~Toilet rooms, tub/shower rooms, and handwashing facilities are constructed as follows: (3-17-22)( )

i. Toilet rooms and bathrooms for residents and personnel are not to open directly into any room in which food, drink, or utensils are handled or stored. ( )

ii. Toilet and bathroom are separated from all other rooms by solid walls or partitions. ( )

iii. On floors where wheelchair residents are housed, there is at least one (1) toilet and one (1) bathing facility large enough to accommodate wheelchairs. ( )

iv. All inside bathrooms and toilet rooms have forced ventilation to the outside. ( )

v. Toilet rooms ~~for resident use are arranged that it is not necessary for~~ are situated such that an individual ~~to~~ need not pass through or into another resident's room to reach the toilet facilities. (3-17-22)( )

vi. Handrails and/or grab bars are provided in resident toilet rooms and bathrooms and are located ~~so~~ as to be functionally adequate. (3-17-22)( )

vii. Each resident floor or nursing unit has at least one (1) tub or shower for every twelve (12) licensed beds; one (1) toilet for every eight (8) licensed beds; and one (1) lavatory with mirror for every eight (8) licensed beds. Tubs, showers, and lavatories are connected to hot and cold running water. ( )

**064. Dining, Recreation Facilities, and Activity Areas.** ~~Facilities must provide one (1) or more attractively furnished, multipurpose areas for dining/recreation purposes that meets the following requirements: The location of these areas must encourage residents, participants, and visitor use. The space needed for dining, recreation, and activities must meet the needs of the residents and have adequate space for adaptive equipment and mobility aids.~~ (3-17-22)( )

~~a.~~ A minimum of twenty five (25) square feet per licensed bed is to be provided. Any facility not in compliance on the effective date of this rule will not be required to comply until the number of licensed beds is increased or until there is a change of ownership of the facility. Provided, however, that a facility not in compliance may not reduce the number of licensed beds and reduce its present dining/recreation space until at least twenty five (25) square feet per licensed bed is provided. (3-17-22)

~~b.~~ It is for the sole use of the residents, and a hall or entry is not acceptable. (3-17-22)

**075. Isolation Units (Temporary).** Each ~~health care~~ facility must have available a room with private toilet, lavatory, and other accessory facilities for temporary isolation of a resident with a communicable or infectious disease. (3-17-22)( )

**086. Utility Areas and Clean and Soiled Areas.** A ~~utility~~ room with a separate entrance and physically partitioned from any ~~facility for~~ toilet, ~~and/or~~ bathing, ~~or both,~~ ~~facility~~ must be provided for the preparation, cleansing, sterilization, and storing of nursing supplies and equipment. A ~~utility~~ room must be provided on each floor in each nursing or staff unit of the facility. Provisions must be made for the separation of clean and soiled activities. Food and/or ice must not be stored or handled in a ~~utility~~ this room. Soiled utility rooms must be provided with ~~foreed~~



mechanical exhaust ventilation to the outside. (3-17-22)( )

**097.** **Storage Space.** The facility must provide general storage areas and medical storage areas as follows: ( )

**a.** General storage at the rate of ten (10) square feet per licensed bed, in addition to suitable storage provided in the resident's sleeping room. ( )

**b.** ~~The facility provides s~~Safe and adequate storage space for medical supplies and equipment and a space appropriate for the preparation of medications. (3-17-22)( )

**108.** **Electrical and Lighting.** All electrical and lighting installation and equipment must ~~be in accordance with the National Electrical Code~~ adhere to applicable local and state regulations, and the standards, guidelines, and requirements contained in the sources incorporated by reference in Section 002 of these rules, and as follows: (3-17-22)( )

~~**a.** All electrical equipment intended to be grounded is grounded. (3-17-22)~~

~~**b.** Frayed cords, broken plugs, and the like are repaired or replaced. (3-17-22)~~

~~**c.** Plug adaptors and multiple outlets are prohibited. (3-17-22)~~

~~**d.** Extension cords are U.L. approved, adequate in size (wire gauge), and limited to temporary usage. (3-17-22)~~

~~**ea.** All resident personal electrical appliances are inspected and approved by the facility engineer, and/or administrator, or both. (3-17-22)( )~~

~~**fb.** All resident rooms have a minimum of thirty (30) foot candles of light delivered to reading surfaces and ten (10) foot candles of light in the rest of the room. adequate lighting for the rooms and for reading surfaces. (3-17-22)( )~~

~~**g.** All hallways, storerooms, stairways, inclines, ramps, exits, and entrances have a minimum of five (5) foot candles of light measured in the darkest corner. (3-17-22)~~

**109.** **Heating, Ventilation, and Air Conditioning (HVAC).** ~~The facility must be ventilated and precautions taken to eliminate offensive odors in the facility. The system must be capable of maintaining a temperature of seventy degrees (70°F) to eighty-five degrees (85°F) Fahrenheit in all weather conditions. (3-17-22)( )~~

**12.** **Heating.** ~~A heating system must be provided for the facility that is capable of maintaining a temperature of seventy-five degrees (75°F) to eighty degrees (80°F) Fahrenheit in all weather conditions. (3-17-22)~~

~~**a.** Facility must be ventilated, and take precautions to eliminate offensive odors in the facility. ( )~~

~~**ab.** Oil space heaters, recessed gas wall heaters, and floor furnaces cannot be used as heating systems for health care facilities. (3-17-22)( )~~

~~**b.** Portable comfort heating devices are not used. (3-17-22)~~

**130.** **Plumbing.** ~~Plumbing at the facility must be as follows. In the absence of local plumbing codes, all plumbing systems must comply with requirements under IDAPA 24.39.20, "Rules Governing Plumbing," and the following: (3-17-22)( )~~

~~**a.** All plumbing complies with applicable local and state codes. (3-17-22)~~

~~**ba.** Vacuum breakers are installed where necessary to prevent backsiphonage. ( )~~

~~eb.~~ The temperature of hot water at plumbing fixtures used by residents is between one hundred ~~five~~ degrees (105~~0~~F) and one hundred twenty degrees (120F) Fahrenheit. (3-17-22)(    )

**121. NEW CONSTRUCTION STANDARDS.**

~~The following requirements must be met:~~ All new buildings must meet the following requirements and the standards, guidelines, and requirements contained in the sources incorporated by reference in Section 002 in these rules. Where there are conflicts between the requirements, the most restrictive condition will apply. All new construction, plans, and specifications must be submitted to, and approved by, the Department to assure compliance with applicable standards, codes, rules, and regulations. All plans must be submitted electronically. (3-17-22)(    )

**01. Plans, Specifications, and Inspections.** ~~New facility construction or any addition, conversion, or renovation of an existing facility is governed by the following rules:~~ All new construction, plans, and specifications must be submitted to, and approved, by the Department to assure compliance with applicable standards, codes, rules, and regulations. All plans must be submitted electronically. (3-17-22)(    )

~~a.~~ Prior to commencing work pertaining to construction of new buildings, any additions, structural changes to existing facilities, or conversion of buildings to be used as a facility, plans and specifications must be submitted to, and approved by, the Department to assure compliance with the applicable construction standards, codes, rules, and regulations. A full set of architecture plans must be prepared, signed, stamped, and dated by an Idaho-licensed architect or engineer. A variance of this requirement may be granted by the Department when the project does not necessitate involvement of an architect or engineer. This must include all the following: (3-17-22)(    )

~~b.~~ The plans and specifications must be prepared by, or executed under, the immediate supervision of a licensed architect registered in the state of Idaho. The employment of an architect may be waived by the Department in certain minor alterations. (3-17-22)

~~e.~~ Preliminary plans must be submitted and include at least the following: (3-17-22)

i. The assignment of all spaces, size of areas and rooms, and indicated in outline the fixed and movable equipment and furniture. ( )

ii. The plans are drawn at a scale sufficiently large to clearly present the proposed design, but not less than a scale of one-eighth inch (1/8") equals one foot (1'). ( )

iii. The drawings include a plan for each floor, including the basement or ground floor with approach or site plan, showing roads, parking areas, sidewalks, etc. ( )

iv. The total floor area and number of beds are computed and noted on the drawings. ( )

v. Outline specifications provide a general description of the construction, including interior finishes, acoustical material, its extent and type and heating, electrical, and ventilation systems. ( )

vi. A physical address approved by the city or county. ( )

vii. Life safety plans. ( )

viii. Fire alarm shop drawings and specifications submitted by a qualified fire alarm contractor. ( )

ix. Sprinkler shop drawings and specifications submitted by an Idaho-licensed fire sprinkler contractor. ( )

~~d.~~ Before commencing construction, the working drawings must be developed in close cooperation with, and approved by, the Department and other appropriate agencies with the following: (3-17-22)

~~i.~~ Working drawings and specifications are prepared so that clear, distinct prints may be obtained,

~~accurately dimensioned, and include all necessary explanatory notes, schedules, legends, and stamped with the licensed architect's seal. (3-17-22)~~

~~ii. Working drawings are complete and adequate for contract purposes. Separate drawings are prepared for each of the following branches of work: architectural, mechanical and electrical. (3-17-22)~~

~~cb. Prior to occupancy, the facility must be inspected and approved by the licensing agency Department. The agency facility will be notified notify the Department at least two (2) weeks prior to completion in order to schedule a final inspection. (3-17-22)( )~~

~~02. Codes and Standards. New construction features must be in accordance with applicable local, state, national standards, codes, and regulations in effect at the time of the construction, addition, remodeling, or renovation. (3-17-22)~~

~~a. In the event of a conflict of requirements between codes, the most restrictive applies. (3-17-22)~~

~~b. Compliance with the applicable provisions of the following codes and standards must be required by, and reviewed for, by this agency: (3-17-22)~~

~~i. American National Standard Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People (ANSI A117.1). (3-17-22)~~

~~ii. Idaho Department of Health and Welfare Rules, IDAPA 16.02.19, "Idaho Food Code." (3-17-22)~~

~~03. Site Requirements. The location of all new facilities or conversion of existing buildings is controlled by the following criteria: (3-17-22)~~

~~a. That it is adjacent to an all-weather road(s). (3-17-22)~~

~~b. That it is accessible to physician's services and medical facilities. (3-17-22)~~

~~c. That it is accessible to public utilities. (3-17-22)~~

~~d. That it is in a lawfully constituted fire district. (3-17-22)~~

~~e. That each facility has parking spaces to satisfy the minimum needs of residents, employees, staff, and visitors. In the absence of a local requirement, each facility provides not less than one (1) space for each day shift staff member and employee, plus one (1) space for each five (5) resident beds. This ratio may be reduced in areas convenient to a public transportation system or to public parking facilities provided that approval of any reduction is obtained from the appropriate state agency. Space must be provided for emergency and delivery vehicles. (3-17-22)~~

~~04. Resident Care Unit. Each resident care unit must be in compliance with the following: (3-17-22)~~

~~a. That the number of beds in a unit does not exceed sixty (60); (3-17-22)~~

~~b. That at least eighty percent (80%) of the beds are located in rooms designed for one (1) or two (2) residents; (3-17-22)~~

~~c. That at least one (1) room in each facility is available for single occupancy for isolation of disease, for privacy in personality conflict, or disruptive resident situations. Each isolation room meets the following requirements: (3-17-22)~~

~~i. All features of regular resident rooms, as described in Subsection 121.05.d.; (3-17-22)~~

~~ii. Supply an entry area that is adequate for gowning; (3-17-22)~~

~~iii. Supply a handwashing lavatory in or directly adjacent to the resident room entry; (3-17-22)~~

- iv. Provide a private toilet; (3-17-22)
- v. Have finishes easily cleanable; and (3-17-22)
- vi. Not be carpeted; (3-17-22)
- d. That each resident room meets the following requirements: (3-17-22)
  - i. ~~Minimum room area, exclusive of toilet rooms, closets, lockers, wardrobes, alcoves, or vestibules is one hundred (100) square feet in single bed rooms and eighty (80) square feet in multiple bed rooms per resident;~~ (3-17-22)
  - ii. ~~Beds in all rooms are placed so that they are three (3) feet apart, two (2) feet away from the side wall parallel with beds, and three (3) feet, six (6) inches from the end of the bed to the opposite wall, or other obstructions;~~ (3-17-22)
  - iii. ~~A lavatory is provided in each resident room. The lavatory may be omitted from a single bed or two (2) bed room when a lavatory is located in an adjoining toilet room that serves that room only;~~ (3-17-22)
  - iv. ~~Each resident has access to a toilet room without entering the general corridor area. One (1) toilet room serves no more than four (4) beds, and no more than two (2) resident rooms. The toilet room contains a water closet and a lavatory. The lavatory may be omitted from a toilet room if each resident room served by that toilet room contains a lavatory;~~ (3-17-22)
  - v. ~~Each resident is provided, within the room, a wardrobe, locker, or closet with a minimum of four (4) square feet. Common closets are not permitted. An adjustable clothes rod and adjustable shelf is provided;~~ (3-17-22)
  - vi. ~~Each resident room cannot be located more than one hundred twenty (120) feet from the soiled workroom or the soiled holding room;~~ (3-17-22)
  - vii. ~~Each room has a window that can be opened without the use of tools. The window sill must not be higher than three (3) feet above the floor and needs to be above grade. The window is at least one-eighth (1/8) of the floor area and provided with shades or drapes;~~ (3-17-22)
  - viii. ~~Cubicle curtains of fire retardant material, capable of enclosing the bed is provided in multiple bed rooms to insure privacy for the residents. Alternatives to this arrangement may be allowed if the alternative provides the same assurance of privacy;~~ (3-17-22)
  - ix. ~~Mirror(s) are arranged for convenient use by residents in wheelchairs, as well as by residents in standing position;~~ (3-17-22)
  - x. ~~A staff calling system is installed at each resident bed and in each resident toilet, bath, and shower room. The staff call in the toilet, bath, and shower room is an emergency call. All calls register at the staff station and activate a visible signal in the corridor at the resident's door. The emergency call system is designed so that a signal light activated at the resident's station will remain lit until turned off at the resident's calling station;~~ (3-17-22)
  - xi. ~~All resident rooms are visible to a staffed nurse's station;~~ (3-17-22)
  - xii. ~~Each resident room is an outside room;~~ (3-17-22)
  - xiii. ~~Residents cannot be cared for or housed in any attic story, trailer house, or in any room other than an approved resident room;~~ (3-17-22)
  - xiv. ~~Resident beds are not be placed in hallways or any location commonly used for other than bedroom purposes;~~ (3-17-22)

- xv. Ceiling heights in resident rooms are a minimum of eight (8) feet; (3-17-22)
- xvi. ~~No room can be used for a resident room that can only be reached by passing through another resident room, utility room or any other room. All resident rooms have direct access to an exit corridor;~~ (3-17-22)
- xvii. ~~Resident rooms do not open into any room in which food is prepared, served, or stored; and~~ (3-17-22)
- xviii. ~~All resident rooms are numbered. All other rooms are numbered or identified as to purpose.~~ (3-17-22)
- e. ~~Service Areas. That the following service areas are located in, or readily available to, each resident care unit. The size and disposition of each service will depend upon the number and types of beds to be served. Although identifiable spaces are required to be provided for each of the indicated functions, consideration will be given to design solutions that would accommodate some functions without specific designation of areas or rooms. Details of such proposals are submitted for prior approval. Each service area may be arranged and located to serve more than one (1) resident care unit, but at least (1) such service area is provided on each resident floor and as follows:~~ (3-17-22)
- i. ~~Staff station with space for charting and storage for administrative supplies convenient to handwashing facilities;~~ (3-17-22)
- ii. ~~Lounge and toilet room(s) for staff (toilet room may be unisex);~~ (3-17-22)
- iii. ~~Individual closets or compartments for the safekeeping of coats and personal effects of personnel located close to the duty station of personnel or in a central location;~~ (3-17-22)
- iv. ~~Clean workroom or clean holding room. If the room is used for work, that it contains a counter and handwashing facilities. When the room is used only for storage as part of a system for distributing clean and sterile supplies, the work counter and handwashing facilities may be omitted;~~ (3-17-22)
- v. ~~A soiled workroom contains a clinical sink or equivalent flushing rim fixture sink for handwashing, work counter, waste receptacle, and soiled linen receptacle. When the room is used only for temporary holding of soiled materials, the work counter may be omitted;~~ (3-17-22)
- vi. ~~Drug distribution station. Provisions are made for secure, convenient, and prompt twenty-four (24) hour availability of medicine to residents. A secure medicine preparation area is available and under the nursing staff's visual control and contains a work counter, refrigerator, and locked storage for controlled drugs, and has a minimum area of fifty (50) square feet. A medicine dispensing unit may be located at the nurse's station, in the clean workroom, or in an alcove or other space convenient to staff for staff control;~~ (3-17-22)
- vii. ~~Clean linen storage. A separate closet or a designated area within the clean workroom is provided. If a closed cart system is used, storage may be in an alcove;~~ (3-17-22)
- viii. ~~Nourishment station. The station contains a sink equipped for handwashing, equipment for serving nourishment between scheduled meals, refrigerator, and storage cabinets. Ice for residents' service and treatment is provided only by icemaker dispenser units;~~ (3-17-22)
- ix. ~~Equipment storage room(s). Room(s) is available for storage of equipment such as I.V. stands, inhalators, air mattresses, and walkers;~~ (3-17-22)
- x. ~~Resident bathing facilities. A minimum of one (1) bathtub or shower is provided for each ten (10) beds not otherwise served by bathing facilities at resident rooms. Residents have access to at least one (1) bathtub in each nursing unit. Each tub or shower is in an individual room or enclosure that provides space for private use of the bathing fixture, for drying and dressing, and for a wheelchair and attendant. At least one (1) shower in each central bathing facility has a minimum of four (4) feet square without curbs and designed for use by a wheelchair.~~ (3-17-22)

- f.** Resident Toilet Facilities. That each resident toilet room meets the following criteria: (3-17-22)
- i.** ~~The minimum dimensions of a room containing only a water closet is three (3) feet by six (6) feet. Additional space is provided if a lavatory is located within the same room. Water closets are accessible for use by wheelchair residents. (3-17-22)~~
  - ii.** ~~At least one (1) room on each floor is appropriate for toilet training. It is accessible from the corridor. A clearance of three (3) feet is provided at the front and at each side of the water closet and the room contains a lavatory. (3-17-22)~~
  - iii.** ~~A toilet room is accessible to each central bathing area without having to go through the general corridor. This may be arranged to serve as the required toilet training facility. (3-17-22)~~
- g.** Sterilizing Facilities. That a system for the sterilization of equipment and supplies is provided. (3-17-22)
- 05. Resident Dining and Recreation Areas.** The following minimum requirements apply to dining/recreation areas. (3-17-22)
- a.** ~~Area Requirement. The total area set aside for these purposes is at least thirty (30) square feet per bed with a minimum, total area of at least two hundred twenty five (225) square feet. For facilities with more than one hundred (100) beds, the minimum area may be reduced to twenty five (25) square feet per bed. If day care programs are offered, additional space is provided as needed to accommodate for day care residents needing naps or for dining and activities. (3-17-22)~~
  - b.** ~~Storage. Storage space is provided for recreational equipment and supplies. (3-17-22)~~
- 06. Rehabilitation Therapy Facilities.** Each facility must include provisions for physical and occupational therapy for rehabilitation of long term care residents. Areas and equipment is necessary to meet the intent of the program. As a minimum, the following must be located on-site, convenient for use to the nursing unit: (3-17-22)
- a.** ~~Space for files, records and administrative activities. (3-17-22)~~
  - b.** ~~Storage for supplies and equipment. (3-17-22)~~
  - c.** ~~Storage for clean and soiled linen. (3-17-22)~~
  - d.** ~~Handwashing facilities within the therapy unit. (3-17-22)~~
  - e.** ~~Space and equipment for carrying out each of the types of therapy that may be prescribed. (3-17-22)~~
  - f.** ~~Provisions for resident privacy. (3-17-22)~~
  - g.** ~~Janitor closets, in or near unit. (3-17-22)~~
  - h.** ~~If the program includes outpatient treatment, additional provisions include: (3-17-22)~~
    - i.** ~~Convenient access from exterior for use by the handicapped. (3-17-22)~~
    - ii.** ~~Lockers for secure storage of residents' clothing and personal effects. (3-17-22)~~
    - iii.** ~~Outpatient facilities for dressing and changing. (3-17-22)~~
    - iv.** ~~Showers for resident use. (3-17-22)~~

- ~~i. Waiting area with provision for wheelchair outpatients. (3-17-22)~~
- ~~07. **Personal Care Unit.** A separate room must be provided with equipment for hair care and grooming needs of the residents. (3-17-22)~~
- ~~08. **Dietary Facilities.** The following must be provided: (3-17-22)~~
  - ~~a. Handwashing facilities in the food preparation area. (3-17-22)~~
  - ~~b. Resident meal service space including facilities for tray assembly and distribution. (3-17-22)~~
  - ~~e. Warewashing in a room or an alcove separate from food preparation and serving areas. This includes commercial type dishwashing equipment. Space is also provided for receiving, scraping, sorting, and stacking soiled tableware and for transferring clean tableware to the using area. Handwashing facilities are conveniently available. (3-17-22)~~
  - ~~d. Potwashing facilities. (3-17-22)~~
  - ~~e. Waste storage facilities that are easily accessible for direct pickup or disposal. (3-17-22)~~
  - ~~f. Office or suitable work space for the dietitian or food service supervisor. (3-17-22)~~
  - ~~g. Toilets for dietary staff with handwashing facility immediately available. (3-17-22)~~
  - ~~h. Janitor's closet located within the dietary department. The closet contains a floor receptor or service sink and storage space for housekeeping equipment and supplies. (3-17-22)~~
- ~~09. **Administration and Public Areas.** The following must be provided: (3-17-22)~~
  - ~~a. Entrance at grade level, sheltered from the weather and able to accommodate wheelchairs. (3-17-22)~~
  - ~~b. Lobby space, including:
    - ~~i. Storage space for wheelchairs. (3-17-22)~~
    - ~~ii. Reception and information counter or desk. (3-17-22)~~
    - ~~iii. Waiting space(s). (3-17-22)~~
    - ~~iv. Public toilet facilities. (3-17-22)~~
    - ~~v. Public telephone(s). (3-17-22)~~
    - ~~vi. Drinking fountain(s). (3-17-22)~~~~
  - ~~e. General or individual office(s) assuring privacy for interviews, business transactions, medical and financial records, and administrative and professional staff. (3-17-22)~~
  - ~~d. Multipurpose room for conferences, meetings, and health education purposes. (3-17-22)~~
  - ~~e. Storage for office equipment and supplies. (3-17-22)~~
- ~~10. **Linen Services.** The following requirements apply: Laundry processing room with commercial type equipment with which a seven (7) days' need can be processed. (3-17-22)~~

~~11. **Central Stores.** General storage rooms must have a total area of not less than ten (10) square feet per bed and concentrated in one (1) area. (3-17-22)~~

~~12. **Janitors' Closets.** In addition to the janitors' closets called for in certain departments, sufficient janitor's closets must be provided throughout the facility to maintain a clean and sanitary environment. These contain a floor receptor or service sink and storage space for housekeeping equipment and supplies. (3-17-22)~~

~~13. **Engineering Services and Equipment Areas.** The following must be provided: (3-17-22)~~

~~a. Equipment room(s) or separate building(s) for boilers, mechanical equipment and electrical equipment. (3-17-22)~~

~~b. Office or suitable desk space for the engineer. (3-17-22)~~

~~c. Maintenance shop(s). (3-17-22)~~

~~d. Storage room(s) for building maintenance supplies. (3-17-22)~~

~~e. Yard equipment storage consisting of a separate room or building for yard maintenance equipment and supplies if ground maintenance is provided by the facility. (3-17-22)~~

~~14. **Details and Finishes.** A high degree of safety for the residents must be provided to minimize the incidence of accidents with special consideration for residents who will be ambulatory to assist them in self care. Hazards such as sharp corners must be avoided. All details and finishes for modernization projects as well as for new construction must comply with the following requirements: (3-17-22)~~

~~a. Details: (3-17-22)~~

~~i. All rooms containing bathtubs, sitz baths, showers, and water closets subject to occupancy by residents are equipped with doors and hardware that will permit access from the outside of the rooms in an emergency. When such rooms have only one (1) opening or are small, the doors must open outwards or be designed to be opened without the need to push against a resident who may have collapsed within the room. (3-17-22)~~

~~ii. Windows and outer doors that may be frequently left in an open position are provided with insect screens. (3-17-22)~~

~~iii. Doors, sidelights, borrowed lights, and windows in which the glazing extends down to within eighteen (18) inches of the floor (thereby creating a possibility for accidental breakage by pedestrian traffic) is glazed with safety glass, wire glass, or plastic glazing material that will resist breaking and will not create dangerous cutting edges when broken. Similar materials are used in wall openings of recreation rooms and exercise rooms unless required otherwise for safety. Safety glass or plastic glazing materials as noted above are used for shower doors and bath enclosures. (3-17-22)~~

~~iv. Dumbwaiters, conveyors, and material handling systems do not open directly into a corridor or exitway. (3-17-22)~~

~~vi. Thresholds and expansion joint covers are made flush with the floor surface to facilitate use of wheelchair and carts. (3-17-22)~~

~~vi. Grab bars are provided at all resident toilets, showers, tubs, and sitz baths. The bars have one and one-half (1-1/2) inches clearance to walls and sufficient strength and anchorage to sustain a concentrated load of two hundred fifty (250) pounds. (3-17-22)~~

~~vii. Recessed soap dishes are provided in showers and bathrooms. (3-17-22)~~

~~viii. Handrails are provided on both sides of corridors used by residents. A clear distance of one and one-half (1-1/2) inches is provided between the handrail and the wall. Ends are returned to the wall. (3-17-22)~~



~~ix. The arrangement of handwashing facilities provides sufficient clearance for blade type operating handles and are installed to permit use by wheelchair residents. (3-17-22)~~

~~x. Lavatories and handwashing facilities are securely anchored to withstand an applied vertical load of not less than two hundred fifty (250) pounds on the front of the fixture. (3-17-22)~~

~~xi. Mirrors are arranged for convenient use by residents in wheelchairs as well as by residents in a standing position. (3-17-22)~~

~~xii. Paper towel dispensers and waste receptacles are provided at all handwashing fixtures. (3-17-22)~~

~~xiii. Ceiling heights are as follows: (3-17-22)~~

~~(1) Boiler rooms have ceiling clearances not less than two (2) feet, six (6) inches above the main boiler header and connecting piping. (3-17-22)~~

~~(2) Rooms containing ceiling mounted equipment have height required to accommodate the equipment. (3-17-22)~~

~~(3) All other rooms have not less than eight (8) foot ceilings except that corridors, storage rooms, toilet rooms, and other minor rooms may not have less than seven (7) feet, eight (8) inches. Suspended tracks, rails, and pipes located in the path of normal traffic are not less than six (6) feet, eight (8) inches above the floor. (3-17-22)~~

~~xiv. Recreation rooms, exercise rooms, and similar spaces where impact noises may be generated are not located directly over resident bed areas unless special provisions are made to minimize the noise. (3-17-22)~~

~~**b. Finishes: (3-17-22)**~~

~~i. Floor materials are easily cleaned and have wear resistance appropriate for the location involved. Floors in areas used for food preparation or food assembly are water resistant and grease proof. Joints in tile and similar materials in such areas are resistant to food acids. In all areas frequently subject to wet cleaning methods or spillage, floor materials are not physically affected by germicidal and cleaning solutions. Floors that are subject to traffic while wet (such as shower and bath areas, kitchens, and similar work areas) have an impervious nonslip surface. Vinyl asbestos tile is not acceptable for such areas. (3-17-22)~~

~~ii. Wall bases in kitchens, soiled workrooms, and other areas that are frequently subject to wet cleaning methods are made integral and coved with the floor, tightly sealed within the wall, and constructed without voids that can harbor insects. (3-17-22)~~

~~iii. Wall finishes are washable and in the immediate area of plumbing fixtures smooth and moisture resistant. Finish, trim, and wall and floor construction in dietary and food preparation areas are free from spaces that can harbor rodents and insects. (3-17-22)~~

~~iv. Floor and wall penetrations by pipes, ducts and conduits are tightly sealed to minimize entry of rodents and insects. Joints of structural elements are similarly sealed. (3-17-22)~~

~~v. Ceilings throughout the facility are easily cleanable. Ceilings in the dietary and food preparation areas have a finished ceiling covering all overhead piping and duct work. Finished ceilings may be omitted in mechanical and equipment spaces, shops, general storage areas and similar spaces, unless required for fire resistance purposes. (3-17-22)~~

~~**15. Construction Features.** The facility must be designed and constructed to sustain dead and live loads in accordance with local building codes. All construction must comply with applicable provisions of the codes and standards as listed in Section 121 and as follows: (3-17-22)~~

~~**a.** All buildings having resident use areas on more than one (1) floor have at least one (1) electrical or~~

- ~~electrohydraulic elevator. (3-17-22)~~
- ~~**b.** All mechanical installations comply with applicable codes and the following: (3-17-22)~~
- ~~i. Prior to completion, all mechanical systems are tested, balanced, and operated to demonstrate to the owner or representative that the installation and operation conform to the plans and specifications. (3-17-22)~~
- ~~ii. Heating and cooling ventilating systems. (3-17-22)~~
- ~~(1) Normal comfort the design temperature for all occupied areas provides a minimum of sixty-eight degrees (68) and a maximum of eighty degrees (80) Fahrenheit. (3-17-22)~~
- ~~(2) All air supply and air exhaust systems are mechanically operated. All fans serving exhaust systems are located at the discharge end of the system. (3-17-22)~~
- ~~**e.** Outdoor air intakes are located as far as practical but not less than twenty-five (25) feet from exhaust outlets of ventilating systems, combustion equipment stacks, medical surgical vacuum systems, plumbing vent stacks, or from areas that may collect vehicular exhaust and other noxious fumes. The bottom of outdoor air intakes serving central systems are located as high as practical but not less than six (6) feet above ground level or, if installed above the roof, three (3) feet above roof level. (3-17-22)~~
- ~~**d.** The bottom of ventilation opening is not be less than three (3) inches above the floor of any room. (3-17-22)~~
- ~~**e.** All central ventilation or air conditioning systems are equipped with filters having efficiencies no less than: (3-17-22)~~
- ~~i. Eighty percent (80%) for resident care, treatment, diagnostic, and related areas that may be reduced to thirty five (35%) for all outdoor air systems. (3-17-22)~~
- ~~ii. Eighty percent (80%) for food preparation areas and laundries. (3-17-22)~~
- ~~iii. Twenty five percent (25%) for all administrative, bulk storage, and sorted holding areas. (3-17-22)~~
- ~~**f.** Plumbing standards. All plumbing systems are designed to meet the following: (3-17-22)~~
- ~~i. Shower bases and tubs are provided with nonslip surfaces. (3-17-22)~~
- ~~ii. The water supply system are designed to supply water at sufficient pressure to operate all fixtures and equipment during maximum demand periods. (3-17-22)~~
- ~~iii. Vacuum breakers are installed on hose bibs, janitors' sinks, bedpan flushing attachments, and on all other fixtures to which hoses or tubing can be attached. (3-17-22)~~
- ~~iv. Water distribution systems are arranged to provide hot water at each hot water outlet at all times. Hot water at shower, bathing, and handwashing facilities do not exceed one hundred twenty degrees (120) Fahrenheit. (3-17-22)~~
- ~~v. Hot water heating equipment has sufficient capacity to supply water at the temperature and amounts as follows: (3-17-22)~~
- ~~(1) Clinical. Six and one-half (6 1/2) gallons per hour per bed at one hundred twenty degrees (120) Fahrenheit. (3-17-22)~~
- ~~(2) Dietary. Four (4) gallons per hour per bed at one hundred eighty degrees (180) Fahrenheit. (3-17-22)~~

- ~~(3) Laundry. Four and one-half (4 1/2) gallons per hour per bed at one hundred sixty-five degrees (165) Fahrenheit. (3-17-22)~~
- ~~g. Electrical standards. All electrical installations comply with applicable codes and the following: (3-17-22)~~
- ~~i. General. Prior to completion, all electrical installations and systems are tested to show that the equipment is installed and operating as planned or specified. (3-17-22)~~
- ~~ii. Switchboards and power panels are located in a separate enclosure accessible only to authorized personnel. (3-17-22)~~
- ~~iii. Panel boards serving lighting and appliance circuits are located on the same floor as the circuits they serve. (3-17-22)~~
- ~~iv. Lighting: (3-17-22)~~
- ~~(1) All spaces occupied by people, machinery and equipment within buildings, approaches to buildings and parking lots have lighting. (3-17-22)~~
- ~~(2) Residents have general lighting and night lighting. A reading light is provided for each resident. At least one (1) light fixture for night lighting is switched at the entrance to each resident room. All switches for control of lighting in resident areas are of the quiet operating type. (3-17-22)~~
- ~~v. Receptacles (convenience outlets): (3-17-22)~~
- ~~(1) Resident rooms. Each resident room has duplex ground type receptacles as follows: One (1) on each side of the head of each bed; one (1) for television if used; and one (1) on another wall. (3-17-22)~~
- ~~(2) Corridors. Duplex receptacles for general use are installed approximately fifty (50) feet apart in all corridors and within twenty-five (25) feet of ends in corridors. (3-17-22)~~
- ~~vi. Equipment installation in special areas. The electrical circuits to fixed or portable equipment in hydrotherapy units are provided with five (5) milliampere ground fault interrupters. (3-17-22)~~
- ~~vii. Nurse/staff calling system. A nurse/staff calling system is provided as specified in Subsection 121.05.d.x. (3-17-22)~~

## 122. FURNISHINGS AND EQUIPMENT.

For furnishings, resident rooms, and bedrooms the following must be met: ( )

~~**01. Furnishings—Resident Living Rooms and Bedrooms.** Living rooms for residents' use must be provided with a sufficient number of reading lamps, tables, chairs, or sofas of satisfactory design for age and condition of the residents. The following requirements must be met: (3-17-22)~~

~~**a01.** Each resident is provided with their own bed that is at least thirty-six (36) inches wide, have has a headboard and a footboard, be is substantially constructed, and in good repair. Roll-away type beds, cots, folding beds, double beds, or Hollywood-type beds are not to be used. (3-17-22)( )~~

~~**b02.** Each bed is provided with satisfactory type springs in good repair and a clean, comfortable mattress at least five (5) inches thick, (four (4) inches if of foam rubber construction and four and one-half (4-1/2) inches if of innerspring type) and standard in size for the bed. ( )~~

~~**e03.** Each resident is provided with an individual rack with towel and washcloth. ( )~~

~~**d.** In addition to basic resident care equipment, each resident is provided an individual reading light, bedside cabinet with drawer, comfortable chair, and storage space for clothing and other possessions. (3-17-22)~~

~~e04.~~ Each resident is provided with a cup and a covered pitcher of fresh water (or the equivalent) at the bedside ~~if the resident needs assistance to ambulate but is able to drink without assistance~~ within reach of resident. (3-17-22)(    )

~~02. General Requirements.~~ Equipment and supplies must be provided to satisfactorily meet the individualized needs of the residents of the facility. Equipment and supplies will vary according to the size of the facility and the type of residents. An authorized representative of the Department will make the final determination as to the adequacy and suitability of equipment and supplies. The following must be met: (3-17-22)

~~a.~~ Cubicle curtains of fire retardant material that are designed to enclose the bed are provided in multiple bed rooms to ensure privacy for the residents. Alternatives may be provided if equivalent privacy is allowed. (3-17-22)

~~b.~~ All furniture and equipment are maintained in a sanitary manner, kept in good repair, and be located for convenient use. (3-17-22)

~~e.~~ An adequate supply of clean linen is available and in good repair to keep the resident clean, odor-free, and insures the comfort of the resident. (3-17-22)

~~d.~~ Equipment and supplies are stored in a designated area specific for equipment and supplies. Utensils not in use are sterilized prior to being stored. Those that cannot be sterilized are thoroughly cleansed in accordance with procedures approved by the Department. (3-17-22)

~~e.~~ All utensils are kept in good condition. Chipped and otherwise damaged utensils are not to be used. (3-17-22)

~~f.~~ Any single use or disposable equipment and supplies are not to be reused. (3-17-22)

123. -- 150~~99~~. (RESERVED)

~~151. ACTIVITIES PROGRAM.~~

The facility must provide adequate funding for the activity program. Residents must not be required to support the funding. (3-17-22)

~~152. SOCIAL SERVICES.~~

The facility must provide for the identification of the social and emotional needs of the residents either directly or through arrangements with an outside resource and provide means to meet the needs identified. Sufficient staff must be provided to implement the program as follows: (3-17-22)

~~01. Licensed Social Worker.~~ That a social worker is licensed by the state of Idaho as a social worker or who receives regular consultation from such a qualified social worker. (3-17-22)

~~02. Outside Resources.~~ That if the facility does not provide the services directly but arranges with an outside resource to provide the services, a facility staff member is designated in writing as a liaison person. (3-17-22)

~~03. Identify and Implement Programs.~~ That the facility ensures that identification of needs and implementation of programs meets the needs and appropriate record keeping is accomplished. (3-17-22)

153. (RESERVED)

~~154. PHYSICIAN SERVICES.~~

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

~~01. Physician Supervision.~~ That each resident is under the direct and continuing supervision of a physician of their own choice licensed by the Idaho Board of Medicine. (3-17-22)

~~02. Necessary Medical Information.~~ That the physician provides the facility with medical information necessary to care for the resident that includes at least a current history and physical or medical findings completed made no longer than five (5) days prior to admission or within forty eight (48) hours after admission. The information includes diagnosis, medical findings, activity limitations, and rehabilitation potential. (3-17-22)

~~03. Physician's Plan of Care.~~ That a physician's plan of care is provided to the facility upon admission of the resident that reflects medication orders, treatments, diet orders, activity level approved, and any other directives to the facility for the care of the resident. (3-17-22)

~~04. Plan of Care Review.~~ That the physician's plan of care for the resident is reviewed by the physician as follows: (3-17-22)

~~a. Every thirty (30) to sixty (60) days for skilled care residents depending upon the visit schedule authorized. (3-17-22)~~

~~b. The plan of care is reordered with any changes included by the physician and signed and dated by the physician at the time of the review. (3-17-22)~~

~~155.—199. (RESERVED)~~

**200. NURSING SERVICES TUBERCULOSIS (TB) CONTROL.**

All facilities must meet the standards, guidelines, and requirements contained in the sources incorporated by reference in Section 002 of these rules. The following requirements must also be met: (3-17-22)(    )

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

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

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

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

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

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

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

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

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

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

~~a. A Director of Nursing Services (DNS) works full time on the day shift but the shift may be varied~~

~~for management purposes. If the DNS is temporarily responsible for administration of the facility, there is a licensed registered nurse (RN) assistant to direct patient care. The DNS is required for all facilities five (5) days per week.~~ (3-17-22)

~~i. The DNS in facilities with an average occupancy rate of sixty (60) residents or more has strictly nursing administrative duties.~~ (3-17-22)

~~ii. The DNS, in facilities with an average occupancy rate of fifty nine (59) residents or less may, in addition to administrative responsibilities, serve as the supervising nurse.~~ (3-17-22)

~~b. A supervising nurse, licensed registered nurse, or a licensed practical nurse, and who meets the requirements designated by the Idaho Board of Nursing to assume responsibilities as a charge nurse and meets the definition in Subsection 002.35.~~ (3-17-22)

~~e. A charge nurse, a licensed registered, or a licensed practical nurse, and who meets the requirements designated by the Idaho Board of Nursing to assume responsibilities as a charge nurse in accordance with the definition in Subsection 002.07. A charge nurse is on duty as follows:~~ (3-17-22)

~~i. In SNFs with an average occupancy rate of fifty nine (59) residents or less a licensed registered nurse is on duty eight (8) hours of each day and no less than a licensed practical nurse is on duty for each of the other two (2) shifts.~~ (3-17-22)

~~ii. In SNFs with an average occupancy rate of sixty (60) to eighty nine (89) residents a licensed registered nurse is on duty for each a.m. shift (approximately 7:00 a.m. – 3:00 p.m.) and p.m. shift (approximately 3:00 p.m. to 11:00 p.m.) and no less than a licensed practical nurse on the night shift.~~ (3-17-22)

~~iii. In SNFs with an average occupancy rate of ninety (90) or more residents a licensed registered nurse is on duty at all times.~~ (3-17-22)

~~iv. In those facilities authorized to utilize a licensed practical nurse as charge nurse, the facility must make documented arrangements for a licensed registered nurse to be on call for these shifts to provide professional nursing support.~~ (3-17-22)

~~d. Nursing hours per resident per day are provided to meet the total needs of the residents. The minimum staffing is as follows:~~ (3-17-22)

~~i. Skilled Nursing Facilities with a census of fifty nine (59) or less residents provide two and four tenths (2.4) hours per resident per day. Hours do not include the DNS but the supervising nurse on each shift may be counted in the calculations of the two and four tenths (2.4) hours per resident per day.~~ (3-17-22)

~~ii. Skilled Nursing Facilities with a census of sixty (60) or more residents provide two and four tenths (2.4) hours per resident per day. Hours do not include the DNS or supervising nurse.~~ (3-17-22)

~~iii. Nursing hours per resident per day are required seven (7) days a week with provision for relief personnel.~~ (3-17-22)

~~iv. Skilled Nursing Facilities are considered in compliance with the minimum staffing ratios if, on Monday of each week, the total hours worked by nursing personnel for the previous seven (7) days equal or exceed the minimum staffing ratio for the same period when averaged on a daily basis and the facility has received prior approval from the Licensing Agency to calculate nursing hours in this manner.~~ (3-17-22)

~~e. Combined Hospital and Skilled Nursing Facility. In a combined facility the DNS may serve both the hospital and long term care unit with supervising and charge nurses as required under Subsection 200.02.b. and 200.02.c. In a combined facility of less than forty one (41) beds, the supervising or charge nurse may be an LPN. Combined beds (forty one (41) or less) represent the total number of acute care (hospital) and long term care (nursing home) beds.~~ (3-17-22)

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

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

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

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

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

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

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

~~04. Medication Administration. Medications must be provided to residents by licensed nursing staff or certified medication assistants (MA-C) per established written procedures that includes at least the following: (4-6-23)~~

~~a. Administered per physician's, dentist's, or nurse practitioner's written orders; (4-6-23)~~

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

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

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

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

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

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

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

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

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

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

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

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

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

**051. Tuberculosis Control.** To assure the control of tuberculosis in the facility, there is a planned, organized program of prevention through written and implemented procedures that are consistent with current accepted practices and ~~includes:~~ included as part of the facility's Infection Control Program. Facilities will remain current with screening and testing of TB for healthcare personnel based on the recommendations and guidelines from the Centers for Disease Control and Prevention and the National Tuberculosis Controllers Association. (4-6-23)(\_\_\_\_)

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

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

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

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

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

**02. If Case of Tuberculosis is Found in the Facility.** ~~If a case of T.B. is found in the facility, all residents and employees are retested.~~ The facility must notify their local public health district following State reporting requirements in IDAPA 16.02.10, "Idaho Reportable Diseases" and follow their recommendations and guidance. (3-17-22)(\_\_\_\_)

## 201. PHARMACY SERVICES.

~~The following requirements must be met:~~ Medications must be provided to residents by licensed nursing staff or certified medication assistants (MA-C) per established written procedures which follow state and federal regulations, and professional standards of practice for medication administration and documentation. All facilities must also meet the standards, guidelines, and requirements contained in the sources incorporated by reference in Section 002 of these rules. (3-17-22)(\_\_\_\_)

**01. Pharmacy Service.** ~~That each SNF has a written agreement with a pharmacist licensed by the state of Idaho to direct, supervise, and be responsible for pharmacy service in the facility and for coordinating services when more than one (1) supplier of medications is utilized by the facility.~~ (3-17-22)

**02. Care of General Medications.** ~~That the care and handling of medications is conducted in the following manner:~~ (3-17-22)

**a.** ~~Medications are administered to residents of the SNF only on the order of a person authorized by law in Idaho to prescribe medications. This order is recorded on the resident's medical record, dated and signed by the ordering physician, dentist or nurse practitioner.~~ (3-17-22)

**b.** ~~All telephone and verbal orders are taken by licensed nurses, pharmacists and physicians only, and recorded on the resident's clinical record, dated and signed by the person taking the order. Telephone and verbal orders are countersigned by the ordering physician, dentist or nurse practitioner within seven (7) days.~~ (3-17-22)

**e.** ~~No person other than licensed nursing personnel and physicians administer medications. This does not include execution of duties of inhalation therapists as ordered by the attending physician.~~ (3-17-22)

**d.** ~~Nursing service personnel do not package or repack, bottle or label any medication, in whole or~~



- ~~in part. (3-17-22)~~
- ~~e. Prescription medication is administered only to the resident whose name appears on the prescription legend. (3-17-22)~~
  - ~~f. All medications are labeled with the original prescription legend including the name and address of the pharmacy, resident's name, physician's name, prescription number, original date and refill date, dosage unit, number of dosage units, and instructions for use and drug name. (Exception: See Unit Dose System.) (3-17-22)~~
  - ~~g. No alteration or replacement of original prescription legend is allowed. (3-17-22)~~
  - ~~h. Prescription renewal or refill is made only under physician's, dentist's, or nurse practitioner's authorization. (3-17-22)~~
  - ~~i. Drugs dispensed meet the standards established by the United States Pharmacopeia, the National Formulary, New Drugs, the Idaho Board of Pharmacy, and the U.S. Food and Drug Administration. (3-17-22)~~
  - ~~j. All medications in the facility are maintained in a locked cabinet with the key for the lock carried only by licensed nursing personnel and/or the pharmacist. (3-17-22)~~
  - ~~k. Poisons and toxic chemicals are stored in separate locked areas apart from medications. (3-17-22)~~
- ~~**03. Record of Medications. (3-17-22)**~~
- ~~a. An accurate and complete record of all medication given, both prescription and nonprescription, is recorded in the resident's chart. The record includes the time given, the medication given, date, dosage, method of administration, and the name and professional designation (R.N., L.P.N.) of the person preparing and administering the medication. The first and last name initials may be used if identified fully elsewhere in the medical record. (3-17-22)~~
  - ~~b. Entries are made on the resident's medication record whenever medications are started or discontinued. (3-17-22)~~
  - ~~e. Reasons for administration of a PRN medication and the resident's response to the medication are documented in the nurse's notes. (3-17-22)~~
- ~~**04. Unit Dose Pharmacy.** That a unit dose pharmacy system may be provided in a SNF as the drug distribution system under the following rules and regulations. (3-17-22)~~
- ~~a. All residents of the facility are served by the unit dose system. (3-17-22)~~
  - ~~b. All medications distributed to the residents are under the unit dose system, if they are prepared and available in unit dose. (3-17-22)~~
  - ~~e. The unit dose system is on a signed, written agreement basis between the facility and the pharmacist. If the facility employs a pharmacist to operate its own in-house pharmacy, a signed, written agreement is not necessary. (3-17-22)~~
  - ~~d. All medications are packaged by individual unit dose, and labeled with drug (proprietary and/or generic) name, unit of dose, and lot identification number or date packaged, and such other rules that may be promulgated by the Board of Pharmacy. The pharmacist maintains a log identifying the drug lot number by date packaged. (3-17-22)~~
  - ~~e. The pharmacist (or the facility) provides suitable drug distribution cabinets that can be locked, or in lieu of a locked cabinet, medications are stored in a room that can be locked. Safe, orderly transport of the drug distribution cabinets are assured by the pharmacist. (3-17-22)~~

~~f. A direct copy of all medication orders from the resident's chart are supplied to the pharmacist in a timely manner so that they can maintain each individual resident's medication profile in the pharmacy from which they fill each resident's twenty four (24) hour medication orders. (3-17-22)~~

~~g. The pharmacist is responsible to see that each individual resident's medication drawer is filled from the drug distribution cabinet each twenty four (24) hours from the resident's medication profile; records individual doses not administered from returned sets of drawers; indicates the reason the medication was not administered; and records medications supplied for the next twenty four (24) hour period. (3-17-22)~~

~~h. Designated nursing staff check each resident's medication drawer contents against their medication profile prior to distribution to the resident. (3-17-22)~~

~~i. The unit dose system is an alternate to packaging and labeling requirements and does not preclude the facility from meeting all other requirements of Section 201. (3-17-22)~~

~~05. Customized Medication Packaging. That the packaging of medications commonly referred to as "blister paks," "punch cards" and "bingo cards" may be utilized by the facility provided that measures of accountability, safety and sanitation are employed. Customized packaging is not to be interpreted to mean a unit dose system. All other requirements of Section 201 applies except for alternate packaging systems. (3-17-22)~~

## 202. PET THERAPY.

The following requirements must be met: ( )

~~01. Policies and Procedures. That policies and procedures are developed by the facility concerning the admission of pets through a visitation program or on a permanent basis. (3-17-22)( )~~

~~02. Type of Pet Allowed. That the types of pets allowed are as follows: (3-17-22)( )~~

~~a. Only domesticated household pets (dogs, cats, birds, fish, hamsters, etc.) are permitted. Exotic pets and wild animals, even though trained, are not be permitted due to the high potential for spread of disease and injury to residents or staff. These include, but are not limited to, iguanas, snakes and other reptiles, monkeys, raccoons and skunks. Turtles are not permitted in the facility, with the exception under Subsection 202.02.b of this rule. (3-17-22)( )~~

~~b. If animals that are prohibited as designated in Subsection 202.02.a. of these rules Exotic pets and wild animals, even though trained, are not be permitted due to the high potential for spread of disease and injury to residents or staff, unless they are brought in for visitation, they are always kept on a leash and under the control of the trainer at all times. (3-17-22)( )~~

~~03. Examination of Pets. That Pets are to receive an examination by a veterinarian prior to admission to the facility. Appropriate vaccinations are to be given. Birds subject to transmission of psittacosis are included. This applies to both ownership and visitation. (3-17-22)( )~~

~~04. Enclosures. That Small animals such as hamsters and birds are to be kept in enclosures. (3-17-22)( )~~

~~05. Permitted Areas. That Pets are not to be allowed in food preparation or storage areas or. They are also not to be allowed in any other area if their presence would pose a significant risk to residents, staff, or visitors. (3-17-22)( )~~

~~06. Interference. That The presence of pets do cannot interfere with the health and rights of other individuals, i.e., noise, odor, allergies, and interference with the free movement of individuals about the facility. (3-17-22)( )~~

## 203. RESIDENT RECORDS.

~~The facility maintains medical records for all residents in accordance with accepted professional standards and practices. The following requirements must be met: (3-17-22)~~

~~01. **Responsible Staff.** That the administrator designates a staff member the responsibility for the accurate maintenance of medical records. If this person is not a Registered Health Information Administrator (RHIA) or a Registered Health Information Technician (RHIT), consultation from such a qualified individual is provided periodically to the designated staff person. (3-17-22)~~

~~02. **Individual Medical Record.** That an individual medical record is maintained for each admission with all entries kept current, dated, and signed. (3-17-22)~~

~~03. **Confidentiality.** That the facility safeguards medical record information against loss, destruction, and unauthorized use. (3-17-22)~~

**203. (RESERVED)**

**204. DAY CARE SERVICES.**

Day care services may be provided for up to twelve (12) hours per day as determined by facility policy. If provided, it cannot interfere with the regular services to facility residents. The following requirements must be met: ( )

~~01. **Staffing.** That the facility provides additional staff depending upon the number of day care participants with the following: and assure that the day care participants receive the services necessary to meet their needs. (3-17-22)( )~~

~~a. Assure that in house facility residents are provided the nursing hours per resident per day as described in Subsection 200.02.e. (3-17-22)~~

~~b. Assure that the day care participants receive the services necessary to meet their needs. (3-17-22)~~

~~02. **Records.** That a day care participant record is to be maintained. (3-17-22)( )~~

~~03. **Space and Supplies.** That facilities accepting day care participants are to provide such space and supplies as necessary to comfortably and efficiently meet the needs of both in-house residents and day care participants. (3-17-22)( )~~

**205. CHILD CARE CENTERS.**

The following requirements must be met: ( )

~~01. **Policies and Procedures.** That a facility that permits a child care center adjacent to or attached to the skilled nursing facility SNF is to establish well-defined written and implemented policies and procedures pertaining to the relationship between the child care center and the SNF. These include, but are not limited to infection control and prevention of disease transmission. (3-17-22)( )~~

~~02. **Day Care Licensure.** That a day care home or day care center for children, as defined under Basic Day Care License Act, Sections 39-1101 through 39-1120, Idaho Code, either attached as a distinct part or as a separate facility on the premises of the SNF facility is to be licensed separately by the appropriate state or local licensing agency. (3-17-22)( )~~

~~03. **Day Care Compliance.** That eEvery child day care home or center complies is to comply with the Idaho Department of Health and Welfare Rules, IDAPA 16.02.10, "Idaho Reportable Diseases." (3-17-22)( )~~

~~04. **Day Care Staff.** That eEach child day care home or center is to be staffed appropriately to meet the needs of the children cared for as a completely, with a separate staff from those the employees of the SNF facility. (3-17-22)( )~~

**206. -- 300. (RESERVED)**

**301. RESPITE CARE SERVICES.**

If the SNF offers respite care to relieve families or other individuals, there must be policies and procedures written

and implemented regarding the program. The following requirements must be met: ( )

**01. Admissions.** ~~That r~~Respite care residents are to be admitted to the facility in the same manner as any other admission that includes, ~~but is not limited to:~~ (3-17-22)( )

- a. Authorization by a physician. ( )
- b. Current medical and other information sufficient to allow the facility to safely care for the resident. ( )
- c. Medication and treatment orders signed and dated by the resident's attending physician. ( )

**02. Limitations.** ~~That n~~No resident is to be considered as respite care when the stay at the facility is not for purposes of relief for other care givers or families and ~~that the stay~~ exceeds a four (4) week period of time. Variances may be granted by the Department on a case-by-case basis. (3-17-22)( )

**03. Records.** ~~That records a~~Are to be maintained for all respite care residents that include at least the following: (3-17-22)( )

- a. Medical information sufficient to care for the resident submitted by the attending physician. ( )
- b. Signed and dated physician's orders for care, including diet, medications, treatments, and any physical activity limitations. ( )
- c. Nursing and other notes by staff caring for the resident. ( )
- d. Medication administration record. ( )
- e. Pertinent resident data information such as name, address, next of kin, who to call in an emergency, name of physician, etc. ( )

**04. Exceptions.** ~~That d~~Due to the short length of stay, certain documents and actions provided to and required for other in-house nonrespite care residents are not required for respite care residents. ~~Allowances~~ Exceptions to be considered at the discretion of the facility are as follows: (3-17-22)( )

- a. A complete history and physical examination by the physician is not required so long as he provides the facility with sufficient information to care for the resident. ( )
- b. Physician visits are required only if the resident needs such a visit due to illness or injury or if the resident exceeds the definition of respite care and remains in the facility beyond a four (4) week period ~~of time~~. (3-17-22)( )
- c. The resident care plan may be limited to include care and services to be provided during their stay and short- and long-term goals are not necessary. (3-17-22)( )
- d. Activity assessments and plans are not necessary so long as any activity limitations are known and recorded on the resident's plan of care. ( )

**302. (RESERVED)**

**303. OTHER SERVICES.**

~~If a SNF offers home health, hospice, or other services from the facility, the needs and requirements for the delivery of those services must in no way interfere with the ongoing operation of the SNF.~~ (3-17-22)

**304. -- 999. (RESERVED)**

**IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE**

**16.03.04 – IDAHO FOOD STAMP PROGRAM**

**DOCKET NO. 16-0304-2301 (ZBR CHAPTER REWRITE)**

**NOTICE OF RULEMAKING – PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-202, 56-203, and 56-209, Idaho Code.

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

<b>VIRTUAL TELECONFERENCE Via WebEx</b>
<b>Thursday, September 14, 2023 9:00 a.m. - 10:00 a.m. (MT)</b>
<b>Join from the meeting link:</b> <a href="https://idhw.webex.com/idhw/j.php?MTID=m6661b45f3c92190294522950b035c34b">https://idhw.webex.com/idhw/j.php?MTID=m6661b45f3c92190294522950b035c34b</a>
<b>Join by meeting number:</b> <b>Meeting number (access code): 2760 128 5419</b> <b>Meeting password: mpNmHbTX565 (67664289 from phones and video systems)</b>
<b>Join by phone:</b> <b>+1-415-527-5035 United States Toll</b> <b>+1-303-498-7536 United States Toll (Denver)</b>

<b>VIRTUAL TELECONFERENCE Via WebEx</b>
<b>Thursday, September 14, 2023 2:30 p.m. - 3:30 p.m. (MT)</b>
<b>Join from the meeting link:</b> <a href="https://idhw.webex.com/idhw/j.php?MTID=m3c521cf139a93c6b7ceb537cfda5ace9">https://idhw.webex.com/idhw/j.php?MTID=m3c521cf139a93c6b7ceb537cfda5ace9</a>
<b>Join by meeting number:</b> <b>Meeting number (access code): 2761 665 4340</b> <b>Meeting password: NsJMMBGc234 (67566242 from phones and video systems)</b>
<b>Join by phone:</b> <b>+1-415-527-5035 United States Toll</b> <b>+1-303-498-7536 United States Toll (Denver)</b>

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

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

Under [Executive Order 2020-01: Zero-Based Regulation](#), the Department is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. The rule changes are intended to perform a comprehensive review of this chapter by collaborating with the public to streamline or simplify this rule language.

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

This chapter contains no fees or charges.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2)(b), Idaho Code, negotiated rulemaking was not conducted because it was deemed to be not feasible as changes in this IDAPA chapter will be for clarity and simplification of language and will not include the removal or change in content that would affect the program requirements.

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

There are no incorporations by reference in this chapter of rules.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Kristin Matthews at 208-334-5553.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2023.

DATED this 4th day of August, 2023.

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  
[dhwrules@dhw.idaho.gov](mailto:dhwrules@dhw.idaho.gov) e-mail

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0304-2301**  
**(ZBR Chapter Rewrite)**

16.03.04 – IDAHO FOOD STAMP PROGRAM

**000. LEGAL AUTHORITY.**

~~The Idaho Legislature has granted the Department of Health and Welfare authority to enter into contracts and agreements with the Federal government to carry out the purposes of any Federal acts pertaining to public assistance or welfare services. The Department of Health and Welfare has authority to make rules governing the administration and management of the Department's business, pursuant to Sections 56-202, 56-203, and 56-209, Idaho Code, authorizes the Department to enter into contracts and agreements with the federal government and to engage in rulemaking for the administration and management of public assistance or welfare services. (3-17-22)(    )~~

**001. TITLE, SCOPE, AND PURPOSE.**

~~**01. Title.** These rules are titled IDAPA 16.03.04 "Idaho Food Stamp Program." (3-17-22)~~

~~**02. Scope.** These rules contain the requirements for application and the eligibility criteria to receive benefits in the Food Stamp Program. These rules are administered by the Department of Health and Welfare for the United States Department of Agriculture. (3-17-22)~~

~~**03. Purpose.** The purpose of these rules is to raise the nutritional level among low income households whose limited food purchasing power contributes to hunger and malnutrition among members of such households. These rules also provide the regulatory basis for that procedure. (3-17-22)~~

**002.1. -- 007. (RESERVED)**

**008. AUDIT, INVESTIGATION AND ENFORCEMENT.**

~~In addition to any actions specified in these rules, †The Department may audit, investigate and take enforcement action under these rules and the provisions of IDAPA 16.05.07, "Investigation and Enforcement of Fraud, Abuse or Misconduct." (3-17-22)(    )~~

**009. (RESERVED)**

**010. DEFINITIONS A THROUGH D.**

~~For the Food Stamp Program, the following definitions apply: (3-17-22)~~

~~**01. Adequate Notice.** Notice a household must receive on or before the first day of the month an action by the Department is effective. ( )~~

~~**02. Administrative Error Claim.** A claim resulting from an overissuance caused by the Department's action or failure to act. ( )~~

~~**03. Aid to the Aged, Blind and Disabled (AABD).** Cash, excluding in-kind assistance, financed by federal, state, or local government and provided to cover living expenses or other basic needs. ( )~~

~~**04. Applicant.** A person applying for Food Stamps. (3-17-22)~~

~~**05. Application for Participation.** The application form filed by the head of the household or authorized representative. ( )~~

~~**06. Application for Recertification.** When a household applies for recertification within thirty (30) days of the end of the certification period, it is considered an application for recertification even if a partial month of benefits is received. (3-17-22)~~

~~**07. Authorized Representative.** A person designated by the household to act on behalf of the household to apply for, or receive and use Food Stamps. Authorized representatives include private nonprofit~~

~~organizations or institutions conducting a drug addiction or alcoholic treatment and rehabilitation center acting for center residents. Authorized representatives include group living arrangement centers acting for center residents. Authorized representatives include battered women's and children's shelters acting for the shelters' residents. Homeless meal providers may not be authorized representatives for homeless Food Stamp recipients.~~ (3-17-22)( )

~~086. Battered Women and Children's Shelter.~~ A shelter for battered women and children which is a public or private nonprofit residential facility. ~~If the facility serves others, a portion of the facility must be set aside on a long term basis to serve only battered women and children.~~ (3-17-22)( )

~~097. Boarder.~~ Any person or group to whom a household, other than a commercial boarding house, furnishes meals and lodging in exchange for an amount equal to or greater than the thrifty food plan. Children, parents and spouses in a household must not be treated as boarders. An individual paying a reasonable amount for meals and lodging. (3-17-22)( )

~~108. Boarding House.~~ A licensed commercial enterprise offering meals and lodging for payment to make a profit. ( )

~~109. Broad-Based Categorical Eligibility.~~ If a participant meets the eligibility requirements found in 7 CFR Section 273.2(j)(2) ~~as well as and also~~ all other Food Stamp eligibility criteria, then the participant is eligible for Food Stamps. Participants who are eligible under this definition are also subject to resource, gross, and net income eligibility standards. (3-17-22)( )

~~120. Categorical Eligibility.~~ If all household members receive or are authorized to receive monthly cash payment through TAFI, AABD, or SSI, the household is categorically eligible. Categorically eligible households are exempt from resource, gross, and net income eligibility standards. ( )

~~131. Certification Period.~~ The period of time for which a household is certified to receive Food Stamp benefits. The month of application counts as the first month of certification. (3-17-22)( )

~~142. Contact (Six-Month).~~ A ~~six month contact is a~~ recertification that waives the interview requirement, allowing for written contact and verification of the participant's circumstances in lieu of the interview. (3-17-22)( )

~~153. Claim Determination.~~ The action taken by the Department establishing the household's liability for repayment when an overissuance of Food Stamps occurs. ( )

~~16. Client.~~ A person entitled to or receiving Food Stamps. (3-17-22)

~~174. Department.~~ The Idaho Department of Health and Welfare. ( )

~~185. Disqualified Household Members.~~ Individuals required to be excluded from participation in the Food Stamp Program are Disqualified Household Members. ~~These include:~~ (3-17-22)( )

~~a. Ineligible legal non citizen who do not meet the citizenship or eligible legal non citizen requirements.~~ (3-17-22)

~~b. Individuals awaiting proof of citizenship when citizenship is questionable.~~ (3-17-22)

~~c. Individuals disqualified for failure or refusal to provide a Social Security Number (SSN).~~ (3-17-22)

~~d. Individuals disqualified for Intentional Program Violation (IPV).~~ (3-17-22)

~~e. Individuals disqualified for receiving three (3) months of Food Stamps in a three (3) year period in which they did not meet the work requirement for able-bodied adults without dependent children.~~ (3-17-22)

~~f. Individuals disqualified as a fugitive felon or probation or parole violator.~~ (3-17-22)



~~g.~~ Individuals disqualified for a voluntary quit or reduction of hours of work to less than thirty (30) hours per week. (3-17-22)

~~h.~~ Individuals disqualified for failure to cooperate in establishing paternity and obtaining support for a child under eighteen (18). (3-17-22)

~~i.~~ Individuals convicted under federal or state law of any offense classified as a felony involving the possession, use, or distribution of a controlled substance when they do not comply with the terms of a withheld judgment, probation, or parole. The felony must have occurred after August 22, 1996. (3-17-22)

~~19. Documentation.~~ The method used to record information establishing eligibility. The information must sufficiently explain the action taken and the proof and how it was used. (3-17-22)

~~20. Drug Addiction or Alcoholic Treatment Program.~~ Any drug addiction or alcoholic treatment rehabilitation program conducted by a private nonprofit organization or institution or a publicly operated community mental health center under Part B of Title XIX of the Public Health Service Act (42 USC 300x, et seq.). Indian reservation based centers may qualify if FNS requirements are met and the program is funded by the National Institute on Alcohol Abuse under Public Law 91-616 or was transferred to Indian Health Service funding. (3-17-22)

**011. DEFINITIONS E THROUGH L.**

For the Food Stamp Program, the following definitions apply: (3-17-22)

**01. Electronic Benefit Transfer (EBT).** A method of issuing Food Stamps to an eligible household. (3-17-22)( )

**02. Eligible Foods.** Any food or food product for human consumption excluding alcohol, tobacco, ~~and hot foods~~ and hot food products ready for immediate consumption. Eligible foods also include: garden seeds and plants to grow food for human consumption. (3-17-22)( )

~~a.~~ Garden seeds and plants to grow food for human consumption. (3-17-22)

~~b.~~ Meals prepared for the elderly at a communal dining facility. (3-17-22)

~~c.~~ Meals prepared and delivered by an authorized meal delivery service. (3-17-22)

~~d.~~ Meals served to a narcotics addict or alcoholic who participate and reside in a rehabilitation center program. (3-17-22)

~~e.~~ Meals prepared and served by an authorized group living center to blind or disabled residents who receive benefits under Titles I, II or X, XIV, XVI of the Social Security Act. (3-17-22)

~~f.~~ Meals prepared and served at a shelter for battered women and children to eligible residents. (3-17-22)

~~g.~~ Meals prepared and served by an authorized public or private nonprofit establishment to homeless Food Stamp participants. (3-17-22)

**03. Eligible Household.** A household living in Idaho and meeting the eligibility criteria in these rules. ( )

~~04. Emancipated Minor.~~ A person, age fourteen (14) but under age eighteen (18), who has been married or whose circumstances show the parent and child relationship has been renounced such as a child in the military service. (3-17-22)

~~05. Enumeration.~~ The requirement that each household member provide the Department either their Social Security Number (SSN) or proof that they have applied. (3-17-22)

**064. Exempt.** A household member who is not required to register for, or participate in, the JSAP program is exempt. A household member who is not required to register for work is exempt. ( )

**075. Extended Certification Household (EC).** A household in which all members are elderly or disabled, and no one has earned income. ( )

**086. Fair Hearing.** A fair hearing in an appeal of a Department decision. ~~See Section 003 of these rules for appeals.~~ (3-17-22)( )

**097. Federal Fiscal Year (FFY).** ~~The federal fiscal year (FFY) is~~ The period from October 1 to September 30. (3-17-22)( )

**108. Field Office.** A Department ~~of Health and Welfare~~ service delivery site. (3-17-22)( )

**109. Food and Nutrition Service (FNS).** ~~The Food and Nutrition Service of the~~ federal entity under the U.S. Department of Agriculture (USDA). ~~This is the federal entity~~ that administers the Food Stamp program. (3-17-22)( )

**120. Group Living Arrangement.** A public or private nonprofit residential setting serving no more than sixteen (16) residents. The residents are blind or disabled and receiving benefits under Title II or XVI of the Social Security Act, certified by the Department under ~~regulations issued under~~ Section 1616(e) of the Social Security Act, or under standards determined by the Secretary of USDA to be comparable to Section 1616(e) of the Social Security Act. (3-17-22)( )

**131. Homeless Person.** A person: ( )

a. Who has no fixed or regular nighttime residence. ( )

b. Whose primary nighttime residence is a temporary accommodation for not more than ninety (90) days in the home of another individual or household. ( )

c. Whose primary nighttime residence is a temporary residence in a supervised public or private shelter providing temporary residence for homeless persons. ( )

d. Whose primary nighttime residence is a temporary residence in an institution which provides temporary residence for people who are being transferred to another institution. ( )

e. Whose primary nighttime residence is a temporary residence in a public or private place which is not designed or customarily used as sleeping quarters for people. ( )

**142. Homeless Meal Provider.** A public or private nonprofit establishment or a profit-making restaurant ~~which that~~ provides meals to homeless people. The establishment or restaurant must be approved by the Department and authorized as a retail food store by FNS. (3-17-22)( )

**153. Identification Card.** The card identifying the bearer as eligible to receive and use Food Stamps. ( )

**164. Inadvertent Household Error Claim (IHE).** A claim resulting from an overissuance, caused by the household's misunderstanding or unintended error. ~~A household error claim pending an intentional program violation decision.~~ (3-17-22)( )

**175. Income and Eligibility Verification System (IEVS).** A system of information acquisition and exchange for income and eligibility verification which meets Section 1137 of the Social Security Act requirements. ( )

**186. Institution of Higher Education.** Any institution ~~which that~~ normally requires a high school

diploma or equivalency certificate for enrollment. These institutions include colleges, universities, and business, vocational, technical, or trade schools at the post-~~high school~~secondary level. (3-17-22)( )

**197. Institution of Post-Secondary Education.** Educational institutions normally requiring a high school diploma or equivalency certificate for enrollment or admits persons beyond the age of compulsory school attendance. The institution must be legally authorized by the state and provide a program of training to prepare students for gainful employment. ( )

**2018. Legal Noncitizen.** A qualified alien under 8 USC Section 1641(b). ( )

**219. Limited Utility Allowance (LUA).** Utility deduction given to a food stamp household that has a cost for more than one (1) utility. This includes electricity and fuel for purposes other than heating or cooling, water, sewage, well and septic tank installation and maintenance, telephone, and garbage or trash collection. ( )

**012. DEFINITIONS M THROUGH Z.**

~~For the Food Stamp Program, the following definitions apply:~~ (3-17-22)

**01. Migrant Farmworker Household.** ~~A migrant farmworker household h~~Has a member who travels from community to community to do agricultural work. (3-17-22)( )

**02. Minimum Utility Allowance (MUA).** Utility deduction given to a food stamp household that has a cost for one (1) utility that is not heating, cooling, or telephone. ( )

**03. Nonexempt.** A household member who must register for work and participate in the JSAP program. ~~A household member who must register for work.~~ (3-17-22)( )

**04. Nonprofit Meal Delivery Service.** A political subdivision or a private nonprofit organization ~~which that~~ prepares and delivers meals; and is authorized to accept Food Stamps. (3-17-22)( )

**05. Overissuance.** The amount Food Stamps issued exceeds the Food Stamps a household was eligible to receive. ( )

**06. Parental Control.** ~~Parental control m~~Mmeans that an adult household member has a minor in the household who is dependent financially or otherwise on the adult. ~~Minors, emancipated through marriage, are not under parental control.~~ Minors living with children of their own are not under parental control. (3-17-22)( )

**07. Participant.** A person who receives Food Stamp benefits. ( )

**08. Program.** The Food Stamp Program created under the Food Stamp Act and administered in Idaho by the Department. ( )

~~**09. Public Assistance.** Public assistance means Temporary Assistance for Families in Idaho (TAFI), and Aid to the Aged, Blind, and Disabled (AABD).~~ (3-17-22)

**409. Recertification.** A recertification is a process for determining ongoing eligibility for Food Stamps. ( )

**140. Retail Food Store.** ~~A retail food store, f~~For Food Stamp purposes means: (3-17-22)( )

**a.** An establishment, or recognized department of an establishment, or a house-to-house food trade route, whose food sales volume is more than fifty percent (50%) staple food items for home preparation and consumption. ( )

**b.** Public or private communal dining facilities and meal delivery services. ( )

**c.** Private nonprofit drug addict or alcohol treatment and rehabilitation programs. ( )

- d. Public or private nonprofit group living arrangements. ( )
- e. Public or private nonprofit shelters for battered women and children. ( )
- f. Private nonprofit cooperative food purchasing ventures, including those whose members pay for food prior to the receipt of the food. ( )
- g. A farmers' market. ( )
- h. An approved public or private nonprofit establishment ~~which that~~ feeds homeless persons. The establishment must be approved by FNS. (3-17-22)( )
- ~~121.~~ **Sanction.** A penalty period when an individual is ineligible for Food Stamps. ( )
- ~~132.~~ **Seasonal Farmworker Household.** ~~A seasonal farmworker household h~~Has a member who does agricultural work of a seasonal or other temporary nature. (3-17-22)( )
- ~~143.~~ **Self-Employment.** ~~Self employment is t~~The process of actively earning income directly from one's own business, trade, or profession. To be considered self-employed, a person is responsible for obtaining or providing a service or product that generates, or is expected to generate, income. ~~Self employment applies only to a business owned by one (1) person. A business owned by more than one (1) person is considered employment, not self-employment.~~ (3-17-22)( )
- ~~154.~~ **Spouse.** Persons who are legally married under Idaho law. ( )
- ~~165.~~ **Standard Utility Allowance (SUA).** Utility deduction given to a food stamp household that has a cost for heating or cooling. ( )
- ~~176.~~ **State.** Any of the fifty (50) States, the District of Columbia, Puerto Rico, Guam, ~~the~~ Northern Mariana Islands, ~~and the~~ Virgin Islands of the United States. (3-17-22)( )
- ~~18.~~ **State Agency.** ~~The Idaho Department of Health and Welfare.~~ (3-17-22)
- ~~197.~~ **Student.** An individual between the ages of eighteen (18) and fifty (50), physically and intellectually fit, and enrolled at least half-time in an institution of higher education. An institution of higher education usually requires a high school or general equivalency diploma for enrollment. This includes colleges, universities, and vocational or technical schools at the post-secondary school level. (3-17-22)( )
- ~~18.~~ **Substance Use Disorder Treatment Program.** Any drug or alcohol rehabilitation program conducted by a private nonprofit organization or institution or a publicly operated community mental health center under Part B of Title XIX of the Public Health Service Act (42 USC 300x, et seq.). Indian reservation-based centers may qualify if FNS requirements are met and the program is funded by the National Institute on Alcohol Abuse under Public Law 91-616 or was transferred to Indian Health Service funding. ( )
- ~~2019.~~ **Supplemental Security Income (SSI).** Monthly cash payments under Title XVI of the Social Security Act. Payments include state or federally administered supplements. ( )
- ~~240.~~ **Systematic Alien Verification for Entitlements (SAVE).** The federal automated system that provides immigration status needed to determine an applicant's eligibility for many public benefits, including Food Stamps. ( )
- ~~221.~~ **Telephone Utility Allowance (TUA).** Utility deduction given to a Food Stamp household that has a cost for telephone services and no other utilities. ( )
- ~~232.~~ **Timely Notice.** Notice that is mailed ~~via the U. S. Postal Service, or~~ electronically, at least ten (10) days before the effective date of an action taken by the Department. (3-17-22)( )

~~24. Twelve Month Contact.~~ For households that have a twenty-four (24) month certification period, Department staff contact the household during the twelfth month of the certification period for the purpose of determining continued eligibility. (3-17-22)

~~253. Tribal General Assistance.~~ Cash, excluding in-kind assistance, financed by federal, state, or local government and provided to cover living expenses or other basic needs. ~~This cash is intended to promote the health and well-being of recipients.~~ (3-17-22)( )

~~264. Verification.~~ The proof obtained to establish the accuracy of information and the household's eligibility. Third party data or documents used to prove the accuracy of information used to make an eligibility determination. (3-17-22)( )

~~275. Verified Upon Receipt.~~ Food stamp benefits are adjusted on open food stamp cases when information is received from "verified upon receipt" sources. Information "verified upon receipt" is received from a manual query or certain authorized automated system matches with the Social Security Administration or Homeland Security query for citizenship status that are considered automatically verified unless questionable. (3-17-22)( )

~~286. Written Notice.~~ Correspondence that is generated by any method including handwritten, typed, or electronic, delivered to the customer by hand, U.S. Mail, professional delivery service, or by any electronic means. The terms "notice" and "written notice" are used interchangeably. ( )

**013. ABBREVIATIONS A THROUGH G.**

~~For the purposes of the Food Stamp Program, the following abbreviations are used.~~ (3-17-22)

- ~~01.~~ AABD. Aid to the Aged, Blind, and Disabled. ( )
- ~~02.~~ ABAWD. Able-bodied adults without dependents. ( )
- ~~03.~~ AE. Administrative Error. ( )
- ~~04.~~ AFA. Application for Assistance. ( )
- ~~05.~~ BIA. Bureau of Indian Affairs. (3-17-22)
- ~~06.~~ BIA-GA. Bureau of Indian Affairs general assistance. (3-17-22)
- ~~07.~~ COLA. Cost of Living Allowance. COLA data comes from SSA. (3-17-22)
- ~~085.~~ CSS. Bureau of Child Support Services. ( )
- ~~096.~~ DHW. ~~The~~ Department of Health and Welfare in Idaho. (3-17-22)( )
- ~~10.~~ DMV. Department of Motor Vehicles in Idaho. (3-17-22)
- ~~1107.~~ EBT. Electronic Benefit Transfer. ( )
- ~~1208.~~ EWS. Enhanced Work Services. ( )
- ~~1309.~~ FNS. ~~The~~ Food and Nutrition Service of the U.S. ~~Department of Agriculture.~~ (3-17-22)( )
- ~~140.~~ FFY. Federal fiscal year. ( )
- ~~15.~~ FMV. Fair market value. (3-17-22)
- ~~161.~~ FPG. Federal Poverty Guideline(s). ( )
- ~~172.~~ FQC. Federal Quality Control. ( )

- ~~183.~~ HUD. ~~The~~ U.S. Department of Housing and Urban Development. ~~(3-17-22)~~( )
- 014. ABBREVIATIONS I THROUGH Z.**  
For the purposes of the Food Stamp Program, the following abbreviations are used. (3-17-22)
- ~~01.~~ ~~ICCP.~~ Idaho Child Care Program. (3-17-22)
- ~~021.~~ IHE. Inadvertent household error. ( )
- ~~03.~~ ~~INS.~~ Immigration and Naturalization Service, in 2003, became the United States Citizenship and Immigration Service (USCIS), a Division of Homeland Security. (3-17-22)
- ~~04.~~ ~~INA.~~ Immigration and Nationality Act. (3-17-22)
- ~~052.~~ IPV. Intentional program violation. ( )
- ~~063.~~ IRS. Internal Revenue Service. ( )
- ~~074.~~ JSAP. Job Search Assistance Program. ( )
- ~~085.~~ LUA. Limited utility allowance. ( )
- ~~096.~~ MUA. Minimum utility allowance. ( )
- ~~107.~~ PA. Public Assistance. ( )
- ~~1108.~~ RSDI. Retirement, Survivors, Disability Insurance received from SSA. ( )
- ~~1209.~~ SAVE. Systematic Alien Verification for Entitlements. ( )
- ~~130.~~ SDX. State Data Exchange. ( )
- ~~141.~~ SQC. State Quality Control. ( )
- ~~15.~~ ~~SRS.~~ Self Reliance Specialist. (3-17-22)
- ~~162.~~ SUA. Standard utility allowance. ( )
- ~~173.~~ SSA. Social Security Administration. ( )
- ~~184.~~ SSI. ~~The~~ Federal Supplemental Security Income Program for the aged, blind, or disabled. ~~(3-17-22)~~( )
- ~~195.~~ SSN. Social Security #Number. ~~(3-17-22)~~( )
- ~~2016.~~ TAFI. Temporary Assistance for Families in Idaho. ( )
- ~~217.~~ TOP. Treasury Offset Program. ( )
- ~~2218.~~ TUA. Telephone Utility Allowance. ( )
- ~~2319.~~ UI. Unemployment Insurance. ( )
- ~~240.~~ USDA. ~~United States~~ Department of Agriculture. ~~(3-17-22)~~( )
- ~~251.~~ VA. ~~The~~ Veterans Administration. ( )

~~262.~~ WIOA. ~~The~~ Workforce Innovation and Opportunity Act. ( )

~~27.~~ WIC. ~~The special supplemental Food Program for Women, Infants, and Children.~~ (3-17-22)

015. -- 098. (RESERVED)

**099. SIGNATURES.**

An individual who is applying for benefits, receiving benefits, or providing additional information as required ~~by this chapter in these rules~~, may do so with the ~~depiction representation~~ of the individual's name either handwritten, electronic, or recorded telephonically. Such signature serves as intention to execute or adopt the sound, symbol, or process for the purpose of signing the related record. (3-17-22)( )

**100. APPLICATION.**

To apply for Food Stamps, the household or an authorized representative must complete and file ~~the an~~ application ~~form, with the Department, complete an~~ interview, ~~with the Department~~ and verify information. There is no age requirement for applicants. Applicants may bring anyone to the interview. The Department will act on all applications. ~~The Department and~~ will grant Food Stamps to eligible households back to the date of application. (3-17-22)( )

**101. APPLICATION FORMS.**

Households can file an application the first day they contact the Department. The Department will have ~~Application for Assistance (AFA) (HW 0901)~~ forms readily available to households ~~and will provide an AFA to any person making a request. Requests for the application can be made by telephone, in person, or by another person. The Department will mail or give the AFA to the person on the day requested.~~ (3-17-22)( )

~~01. Expectation. The household must turn in page one (1) of the AFA to file for Food Stamps. The Department will provide an AFA to any person making a request. Requests for the application can be made by telephone, in person or by another person. The Department will mail or give the AFA to the person on the day requested.~~ (3-17-22)

~~02. Explanation of Application Process. The Department will provide a written statement telling what the household must do to complete the application process. The statement will identify sources of the proof needed to complete the application process.~~ (3-17-22)

102. (RESERVED)

**103. FILING AN APPLICATION.**

The AFA must contain the applicant's name, address, signature, and application date. A household can file for Food Stamps by turning in page one of the AFA to the Food Stamp office. This protects the application date. If the household is eligible, Food Stamps for the first month will be prorated from the application date. The AFA can be submitted at the ~~F~~ield ~~O~~ffice by the household or authorized representative. The AFA can be submitted by mail, ~~fax, or email.~~ (3-17-22)( )

104. -- 105. (RESERVED)

**106. DETERMINATION OF WHEN A NEW APPLICATION FOR ASSISTANCE (AFA) IS REQUIRED.**

The Department must follow the procedure outlined in 7 CFR 273.2(g) and (h) in determining when a food stamp household is required to fill out a new ~~application for assistance (AFA).~~ (3-17-22)( )

107. -- 112. (RESERVED)

**113. HOUSEHOLD COOPERATION.**

The household must cooperate with the Department. The application must be denied if the household refuses to cooperate. Refusal to cooperate includes failing to act without a sound and timely excuse. Giving false information on purpose is failure to cooperate. ~~The Department must show false information was given on purpose before denying~~

~~the application. The household is ineligible if it refuses to cooperate in a six-month or twelve-month contact, recertification, program review or evaluation.~~ If an application is denied or Food Stamps are stopped for refusal to cooperate, the household ~~can~~ may reapply. The household is not eligible until it cooperates with the Department.

(3-17-22)( )

**114. APPLICATION WITHDRAWAL.**

Households can withdraw their application any time before the eligibility decision. The Department will document the case record with the withdrawal reason ~~in the case record and whether the household was contacted to confirm the withdrawal.~~ The Department will tell the household of the right to reapply.

(3-17-22)( )

**115. AUTHORIZED REPRESENTATIVE.**

The household can choose a nonhousehold member to act as an authorized representative. The household can designate in writing another responsible household member or a responsible adult outside the household as an authorized representative. An adult employee, of an authorized ~~drug addiction or alcoholic~~ substance use disorder treatment and rehabilitation center, or an authorized group living arrangement center, may act as an authorized representative for the household. Conditions for an authorized representative are:

(3-17-22)( )

**01. Designating Authorized Representative.** ~~When household members cannot apply for, receive or use Food Stamps, the household can choose an authorized representative. The household must appoint the authorized representative in writing. Households may designate an authorized representative to act on behalf of a household to apply for, receive, or use food stamps.~~ The authorized representative should be aware of household circumstances. ~~The household should prepare or review the AFA when the authorized representative will be interviewed.~~

(3-17-22)( )

**02. Persons Who Cannot Be an Authorized Representative.** Persons with a conflict of interest may not act as an authorized representative without the Department's written approval. The ~~F~~ field ~~O~~ office supervisor must determine if no one else is available and give written approval. Persons with a conflict of interest are listed below:

(3-17-22)( )

- a. Retailers allowed to accept Food Stamps. ( )
- b. Department employees involved in the certification or issuance process. ( )
- c. A person disqualified for IPV during the penalty period, unless ~~he is~~ they are the only adult household member and no one else is available. (3-17-22)( )
- d. Homeless meal providers. ( )

**03. Department Responsibilities.** The Department will: ( )

- a. Make sure authorized representatives are properly selected. ( )
- b. Record the representative's name in the case record. ( )
- ~~e.~~ Not place limits on the number of households a representative may represent. (3-17-22)
- ~~dc.~~ Inform the household it will be liable for any overissuance resulting from wrong information given by the representative. ( )
- ~~ed.~~ Make sure the household freely requested the representative. ( )
- ~~f.~~ Make sure the household is getting the correct amount of benefits. (3-17-22)
- ~~g.~~ Make sure the representative is properly using the Food Stamps. (3-17-22)

**04. Authorized Representative Removed.** The Department may remove an authorized representative for up to one (1) year if the person knowingly ~~distorts a household's circumstances,~~ gives false information, or



improperly uses the Food Stamps. This provision does not apply to ~~drug and alcohol~~ substance use disorder centers and group homes. Written notice must be sent to the household and the authorized representative thirty (30) days before the penalty begins. The notice must list: (3-17-22)( )

- a. The proposed action. ( )
- b. The reason for the action. ( )
- c. The right to a fair hearing. ( )
- d. The name and telephone number to contact for more information. ( )

~~05. **Contingency Designation.** A household member able to apply for and get Food Stamps can name an authorized representative, in writing, in case the household becomes unable to use Food Stamps. (3-17-22)~~

~~06. **Emergency Designation.** The household may choose an emergency authorized representative if unforeseen circumstances arise. The household must complete a statement appointing the person as the authorized representative. The authorized representative must sign the statement. The household cannot be required to go to the Field Office to complete this statement. (3-17-22)~~

05. **Authorized Representatives for Substance Use Disorder Treatment Centers and Group Homes.** Substance use disorder treatment centers and the heads of group living arrangements that act as authorized representatives for their residents, and which intentionally misrepresent households' circumstances, may be prosecuted under applicable federal and state statutes for their acts. ( )

116. -- 119. (RESERVED)

**120. HOUSEHOLD INTERVIEWS.**

The Department must conduct an interview with the applicant, a member of the household, or the authorized representative. Interviews must be conducted either face-to-face or via telephone, ~~based on hardship criteria evident in the case record. The applicant may bring any other person to the interview. The Department does not require households to report for an in-office interview during their certification period.~~ The frequency of the interview must be as follows: (3-17-22)( )

01. **Twenty-Four Months.** ~~The interview must be a~~At least once every twenty-four (24) months for households certified for twenty-four (24) months. (3-17-22)( )

02. **Twelve Months.** ~~The interview must be e~~Every twelve (12) months for all other households. (3-17-22)

121. -- 132. (RESERVED)

**133. VERIFICATION.**

The Department must have verification to support the benefit determination. ~~Verification is third party data or documents used to prove the accuracy of AFA information.~~ The Department must give the applicant household a clear written statement of the proof to bring to the interview. The statement will indicate the Department will help the household get proof, if needed. The Department must give the household ten (10) calendar days from the request date to provide proof. Proof can be provided in person, by mail, or by ~~an authorized representative~~ electronic interfaces. If the proof supplied is ~~faulty, not complete or not consistent~~ questionable, the Department can require further proof. The Department ~~must will~~ notify the household of any other steps necessary to complete the application process. (3-17-22)( )

134. (RESERVED)

**135. SOURCES OF VERIFICATION.**

The following sources of verification must be considered: ( )

**01. Written Confirmation.** A primary source of proof is written confirmation of circumstances. Written proof includes driver's licenses, work or school identification, birth certificates, wage stubs, award letters, court orders, divorce decrees, separation agreements, insurance policies, rent receipts, and utility bills. Acceptable proof is not limited to a single document. Proof can be obtained from the household or other sources. Secondary sources of proof must be used to verify a household's circumstances if the primary source cannot be obtained or does not prove eligibility or benefit level. ( )

**02. Collateral Contacts.** A ~~collateral contact is an~~ oral confirmation of a household's circumstances by a person outside of the household. The collateral contact may be made either in-person or over the telephone. (3-17-22)( )

**03. Automated System Data.** Information that is obtained through interfacing with other government agency computer systems or authorized systems. (3-17-22)( )

**136. (RESERVED)**

**137. PROOF FOR QUESTIONABLE INFORMATION.**

Prior to the certification, a six-month or twelve-month contact, or recertification of the household, the Department must verify all questionable information regarding eligibility and benefit level. Proof is required when details are not consistent with information received by the Department. Proof may be obtained either verbally or in writing. ( )

**138. PROVIDING PROOF TO SUPPORT APPLICATION STATEMENTS.**

The household has primary responsibility to provide proof supporting its statements on the application. ~~The household has primary responsibility and~~ to resolve any questionable information. The Department must assist the household in obtaining proof. Households may supply proof in person, ~~through the or by~~ mail, ~~by~~ facsimile, or other electronic device, ~~or through an authorized representative~~ interfaces. The Department will not require the household to present proof in person. (3-17-22)( )

**139. -- 141. (RESERVED)**

**142. PROCESSING STANDARDS.**

The Department will determine Food Stamp eligibility within thirty (30) days of the application date. The application date is the day the AFA is received and date stamped by the Field Office. The application date for a person released from a public institution is the release date; if the person applied for Food Stamps before ~~his~~ their release. The AFA must contain at least the applicant's name and address. ~~The AFA must and~~ be signed by a responsible household member or representative. (3-17-22)( )

**143. -- 145. (RESERVED)**

**146. DENIAL OF FOOD STAMP APPLICATION.**

The Department will deny the Food Stamp application under conditions listed below. ~~The Department will and~~ send the household notice of denial. (3-17-22)( )

**01. Household Ineligible.** The Department will deny the application for ineligible households as soon as possible, but not later than thirty (30) calendar days following the application date. ( )

**02. Household Fails to Appear for Interview.** If the household fails to appear for an interview, and fails to contact the Department, the application will be denied thirty (30) calendar days after the application date. ( )

**03. Household Does Not Provide Proof After Interview.** If the household did not provide requested proof after an interview or later request, the Department will deny the application ten (10) calendar days after the request for proof. ( )

**147. ~~CASE ACTION AFTER DELAY CAUSED BY HOUSEHOLD DELAYS IN PROCESSING.~~**  
~~The Department must follow the procedure outlined in 7 CFR 273.2(g) and (h) in determining the appropriate action~~

~~to take on food stamp benefits when the household has delayed completing the application process. The Department must follow the procedure outlined in 7 CFR 273.2(h) in determining the appropriate action to take on food stamp benefits when there are delays in completing the application process.~~ (3-17-22)( )

**148. DELAYS IN PROCESSING CAUSED BY THE DEPARTMENT.**

A processing delay exists when the Department does not determine Food Stamp eligibility within thirty (30) days of application. The Department will determine the cause of the delay. Delays caused by the Department are: (3-17-22)

~~01. No Application Help.~~ The Department did not offer or try to offer help to complete the application. (3-17-22)

~~02. Work Registration.~~ (3-17-22)

~~a.~~ The Department did not register household members for work. (3-17-22)

~~b.~~ The Department did not inform the household of the need to register for work. (3-17-22)

~~e.~~ The Department did not give the household ten (10) days from the notice date to register for work. (3-17-22)

~~03. Application Forms Mailed Late.~~ Application forms were requested in writing or by telephone. The Department did not mail the application forms the same day the household made the request. (3-17-22)

~~04. Proof.~~ The Department did not allow the household ten (10) days from the notice date to provide the missing proof. (3-17-22)

~~149. (RESERVED)~~

**150. DELAYS OVER SIXTY DAYS.**

If the Department caused the delay, the Department will process the original application until an eligibility decision is made. The original application must be used even if the second thirty (30) day period has passed. If the household is found eligible and the delay was the Department's fault during the first thirty (30) days, provide Food Stamps back to the application date. If the household is found eligible and the delay was the household's fault during the first thirty (30) days and the Department's fault during the second thirty (30) days, issue Food Stamps for the month after the application month. If the household is at fault for the first and second thirty (30) day delay, deny the application. A new application is required. (3-17-22)

~~151-148. -- 154. (RESERVED)~~

**155. EXPEDITED SERVICE ELIGIBILITY.**

Applicants must be screened to determine if the household is entitled to expedited service. The household must meet one (1) of the expedited service criteria below. The household must have provided proof postponed by the last expedited service or have been certified under the normal standards since the last expedited service. ( )

**01. Low Income and Resources.** To receive expedited services, the household's monthly countable gross income must be less than one hundred fifty dollars (\$150) and the household's liquid resources must not exceed one hundred dollars (\$100). ( )

**02. Destitute.** To receive destitute expedited services, the household must be a destitute migrant or seasonal farmworker household. The household's liquid resources must not exceed one hundred dollars (\$100). ( )

**03. Income Less Than Rent and Utilities.** The household's combined monthly gross income and liquid resources are less than their monthly rent or mortgage, and utilities cost. ( )

**156. TIME LIMITS FOR EXPEDITED FOOD STAMPS.**

Time limits for acting on expedited Food Stamp applications are listed below: ( )

**01. Seven Day Limit for Food Stamps.** For households entitled to expedited service, the Department will provide Food Stamps to the household within seven (7) days of the application date. ( )

**02. Seven Days After Discovery.** If not discovered at initial screening, the Department will provide expedited services to an expedite-eligible household within seven (7) days. ~~Seven (7) days, which~~ begins the day after the Department finds the household is entitled to expedited service. (3-17-22)( )

**03. Seven Days for Waived Interview.** The Department will provide expedited services within seven (7) days of the application date for households entitled to an office interview waiver. Seven (7) days is counted from the application date. ~~If a telephone interview is conducted, the AFA must be mailed to the household for signature. The mailing time must not be included in the seven (7) days. Mailing time includes the days the AFA is in the mail to and from the household. Mailing time includes the days the AFA is at the household pending signature and mailing.~~ (3-17-22)( )

~~**04. Treatment Centers.** For residents of drug addiction or alcoholic treatment centers, Food Stamps must be provided within seven (7) days of the application date. (3-17-22)~~

~~**05. Shelter Residents.** For residents of shelters for battered women and children, Food Stamps must be provided within seven (7) days of the application date. (3-17-22)~~

**157. EXPEDITED FOOD STAMP WORK REGISTRATION.**

The applicant must complete work registration unless ~~he is~~ they are exempt or has ve a representative register ~~him~~ them. Other non- exempt household members must register if the registration can be done in seven (7) days. (3-17-22)( )

**158. EXPEDITED VERIFICATION.**

The Department will verify the applicant's identity through readily available proof or a collateral contact. Proof may include identification such as a driver's license, birth certificate, or voter registration card. The Department will try to get proof so that benefits can be issued within seven (7) days of the application date. Expedited Food Stamps must not be delayed beyond seven (7) days for proof other than identity. Other proof can be postponed to issue expedited Food Stamps. ( )

**159. (RESERVED)**

**160. EXPEDITED CERTIFICATION.**

If all required proof is provided for expedited certification, a normal certification period is assigned. Certification based on application date, household type, and proof is listed below: ( )

**01. Non-migrant Household Applying from the First Through the Fifteenth of the Month. ( )**

**a.** For a non-migrant household applying from the first through the fifteenth of the month, if proof of eligibility factors is postponed, assign a normal certification period: the Department will ~~issue~~ the first month's benefits. ~~De~~ The Department will not issue the second month's benefits until the postponed proof is received. ( )

**b.** When proof is postponed, the household has thirty (30) days from the application date to provide the proof. The household must be given timely and adequate notice that no further benefits will be issued until proof is completed. If the proof results in changes in the household's Food Stamps, the Department will act on the changes without advance notice. ( )

**c.** If postponed proof is provided before the second month, the Department will process an issuance for the first working day of the second month. If proof is provided in the second month, the Department will issue benefits within seven (7) calendar days from the date the proof is received. If postponed proof is not provided within thirty (30) days from the application date, the Department will close the case. (3-17-22)( )

**02. Non-migrant Household Applying from the Sixteenth Through the End of the Month.- ( )**

**a.** For a non-migrant household applying from the sixteenth to the end of the month, if proof of eligibility factors is postponed, the Department will assign a normal certification period, and fissue the first- and second-month's benefits within the expedited time frame.- ( )

**b.** When proof is postponed, the household has thirty (30) days from the application date to complete the proof. The household must be given timely and adequate notice that no further benefits will be issued until proof is completed. If the proof results in changes in the household's Food Stamps, the Department will act on the changes without advance notice.- ( )

**c.** If postponed proof is provided within thirty (30) days, the Department will process an issuance for the first working day of the third month. If postponed proof is not provided within thirty (30) days from the application date, the Department will close the case. (3-17-22)( )

**03. Migrant Household Applying from the First Through the Fifteenth of the Month.- ( )**

**a.** For a migrant household applying from the first (1st) through the fifteenth (15th) of the month, if proof of eligibility factors is postponed, the Department will assign a normal certification period, and fissue the first month's benefits.- ( )

**b.** When proof is postponed, the household has thirty (30) days from the application date to complete in-state proof. The household has sixty (60) days from the application date to complete out-of-state proof. The household must be given adequate and timely notice no further benefits will be issued until the postponed proof is completed. Before the second month's benefits are issued, the household must provide all in-state postponed proofs. Before the third month's benefits are issued, the household must provide all out-of-state postponed proof. If the proofs result in changes in the household's Food Stamps, the Department will act on these changes, without providing advance notice.- ( )

**c.** Migrants are entitled to postponed out-of-state proof only once each season. If postponed in-state proof is provided before the second month, the Department will process an issuance for the first working day of the second month. If postponed out-of-state proof is provided before the third month, the Department will process a regular issuance for the third month. If postponed out-of-state proof is provided in the third month, the Department will issue benefits within seven (7) calendar days from the date proof is received. If postponed in-state proof is not provided within thirty (30) days from the application date, the Department will close the case. If postponed out-of-state proof is not provided within sixty (60) days from the application date, the Department will close the case. (3-17-22)( )

**04. Migrant Household Applying from the Sixteenth Through the End of the Month.- ( )**

**a.** For a migrant household applying from the Sixteenth to the end of the month, if proof of eligibility factors is postponed, the Department will assign a normal certification period, and fissue the first- and second-months' benefits within the expedited time frame.- ( )

**b.** When proof is postponed, the household has thirty (30) days from the application date to provide in-state proof. The household has sixty (60) days from the application date to provide out-of-state proof. The household must be given adequate and timely notice no further benefits will be issued until the postponed proof is completed. Before the third month's benefits are issued, the household must provide all in-state and out-of-state postponed proofs. If the proofs result in changes in the household's Food Stamps, the Department will act on these changes without providing advance notice.- ( )

**c.** Migrants are entitled to postponed out-of-state proof only once each season. If postponed proof is provided before the third month, the Department will process a regular issuance for the third month. If postponed out-of-state proof is provided in the third month, the Department will issue benefits within seven (7) calendar days from the date proof is received. If postponed in-state proof is not provided within thirty (30) days from the application date, the Department will close the case. If postponed out-of-state proof is not provided within sixty (60) days from the application date, the Department will close the case. (3-17-22)( )

**05. Reapplying Household.** When a household granted postponed proof at the last expedited

certification reapplies, it must provide the postponed proof before it is again eligible for expedited certification. The Department does not require postponed proof if the household was certified under normal standards since the last expedited certification. (3-17-22)( )

**161. NO LIMIT TO EXPEDITED CERTIFICATIONS.**

There is no limit to the number of times a household can receive expedited certification. ~~The household must provide proof postponed at the last expedited certification. The Department does not require postponed proof if the household was certified under normal standards since the last expedited certification.~~ (3-17-22)( )

**162. EXPEDITED SERVICES FOR DESTITUTE HOUSEHOLDS.**

Migrant or seasonal farmworker households meeting destitute conditions below can get expedited services. The rules for destitute households apply at initial application, the six-month or twelve-month contact, and recertification, but only for the first month of each contact or certification period. ( )

**01. Terminated Source of Income.** When ~~the~~ the household's only income for the application month was received before the application date and was from a terminated source. The Department will consider the household is considered destitute. Terminated income is income received monthly or more often, no longer received from the same source the rest of the application month, or the next month or income received less often than monthly; and not expected in the month the next regular payment is normally due. (3-17-22)( )

**02. New Income in Application Month.** When only new income is expected in the application month, the household is considered destitute. Only twenty-five dollars (\$25), or less, of new income can be received in the ten (10) days after the application date. Income is new if twenty-five dollars (\$25), or less, is received during the thirty (30) days before the application date. New income was received less often than monthly, was not received in the last normal payment interval, or was twenty-five dollars (\$25) or less. (3-17-22)( )

**03. Terminated Income and New Income in Application Month.** Destitute households can get terminated income before the application date and new income before and after the application date. New income must not be received for ten (10) days after application and must not exceed twenty-five dollars (\$25). The household must get no other income in the application month. (3-17-22)( )

**04. Application Month.** For the application month, the Department will count only income received between the first day of the month and the application date. ~~Do, and will~~ not count income from a new source expected after the application date. (3-17-22)( )

**163. SPECIAL CONSIDERATION OF INCOME FOR DESTITUTE HOUSEHOLDS.**

Special consideration of income for destitute households is listed below. The rules for destitute households apply at initial application, a six-month or twelve-month contact, and recertification, but only for the first month of each contact or certification period. ( )

**01. Travel Advances.** For destitute eligibility and benefit level, travel advances ~~apply as follows:-~~ ( )

**a.** ~~Travel advances from~~ employers for travel costs to a new employment location are excluded. ( )

**b.** ~~Travel advances against~~ future wages are counted as income, but not a new source of income. (3-17-22)( )

**02. Household Member Changes Job.** A person changing jobs with the same employer is still getting income from the same source. A migrant's income source is the grower, not the crew chief. When a migrant moves with a crew chief from one (1) grower to another, the income from the first grower is ended. The income from the next grower is new income. ( )

**03. Recertification or Six-Month or Twelve-Month Contact.** The Department will ~~Dis~~ disregard income from the new source for the first month of the new certification period if more than twenty-five dollars (\$25) will not be received by the tenth calendar day after the normal issuance. (3-17-22)( )

**164. DENIAL OF EXPEDITED SERVICE.**

The Department will deny expedited service if the household does not meet expedite criteria. ~~The Department will deny expedited service if the household or~~ fails to cooperate in the application process. Failure to cooperate includes missing a scheduled expedited service appointment. The Department will still process the application under standard methods. (3-17-22)( )

**165. CONTESTING DENIED EXPEDITED SERVICE.**

The Department will offer an agency conference to a household contesting denial of expedited services. The Department will tell households they can request an agency conference. ~~The Department will tell a household an agency;~~ the conference will not delay or replace a fair hearing. Migrant farmworker households and households planning to move are entitled to expedited fair hearings. (3-17-22)( )

**166. -- 1767. (RESERVED)**

**177. FOOD STAMPS FOR TAFI OR AABD HOUSEHOLDS.**

~~The Department will tell TAFI or AABD applicants they can apply for Food Stamps when they apply for TAFI or AABD. Households, applying for TAFI or AABD and Food Stamps at the same time, must complete an application for TAFI or AABD and Food Stamps. Households may be eligible for an out-of-office interview. The Food Stamps must be issued by Food Stamp rules. The Department will tell Food Stamp households, applying for TAFI, that TAFI time limits and requirements do not apply to the Food Stamp program. Households no longer receiving TAFI may still be eligible for Food Stamps.~~ (3-17-22)

**178. CATEGORICALLY ELIGIBLE HOUSEHOLDS.**

Households with all members meeting one (1) of the criteria below are categorically eligible for Food Stamps. The Department will not compute resource eligibility. ~~The Department will not compute~~ gross or net income eligibility limits, social security number information, sponsored alien information, and residency. Categorically eligible households must meet all other Food Stamp eligibility criteria. ~~Categorically eligible households,~~ and have the same rights as other households. (3-17-22)( )

**01. Cash Benefits.** All household members are approved for, or already receive, TAFI<sub>1</sub> ~~or~~ AABD<sub>2</sub> or SSI cash benefits. ~~The household is categorically eligible.~~ (3-17-22)( )

**02. Benefits Recouped.** All household members have AABD or SSI benefits being recouped. ~~The household is categorically eligible.~~ (3-17-22)( )

**03. Grant Less Than Ten Dollars.** All household members not receiving TAFI<sub>1</sub> ~~or~~ AABD<sub>2</sub> or SSI because their grant is less than ten dollars (\$10). ~~The household is categorically eligible.~~ (3-17-22)( )

**179. HOUSEHOLDS NOT CATEGORICALLY ELIGIBLE.**

The households listed below are not categorically eligible for Food Stamps. ( )

~~**01. Medicaid Only.** Households are not categorically eligible if any household member receives Medicaid benefits only.~~ (3-17-22)

~~**02. IPV.** Households are not categorically eligible, if any household member is disqualified for a Food Stamp Intentional Program Violation (IPV).~~ (3-17-22)( )

~~**03. Work Requirements.** Households are not categorically eligible, if any household member fails to comply with the Food Stamp work requirements.~~ ( )

~~**04. Ineligible Legal Non-Citizen or Student.** Households are not categorically eligible if any member is an ineligible legal non-citizen or ineligible student.~~ ( )

~~**05. Nonexempt Institution.** Households are not categorically eligible if any member is a person living in a nonexempt institution.~~ ( )

**180. CATEGORICAL ELIGIBILITY ENDS.**

Categorical eligibility ends when the household member is no longer eligible for TAFI, AABD, or SSI. If the household is still eligible under Food Stamp rules, the household will continue to receive Food Stamps. If categorical eligibility ends and household income or resources exceed the Food Stamp limits, the household is no longer eligible for Food Stamps. Food Stamps will stop after timely advance notice. ( )

**181. BROAD -BASED CATEGORICALLY ELIGIBLE HOUSEHOLD EXCEPTIONS.**

If a household contains any of the following members, the household is not eligible under Broad-Based Categorical Eligibility. ( )

01. **IPV.** Any household member is disqualified for an ~~Intentional Program Violation (IPV).~~ (3-17-22)( )

02. **Drug-Related Felony.** Any household member is ineligible because of a drug-related felony. ( )

03. **Strike.** Any household member is on strike. ( )

04. **Transferred Resources.** Any household member transferred resources ~~in order~~ to qualify for benefits. (3-17-22)( )

05. **Refusal to Cooperate.** Any household member refused to cooperate in providing information that is needed to determine initial or ongoing eligibility. ( )

**182. VERIFICATION FOR TAFI OR AABD HOUSEHOLDS.**

To determine eligibility for Food Stamps in TAFI or AABD households, the Department will use TAFI or AABD proof. ( )

**183. TIME LIMITS FOR CATEGORICALLY ELIGIBLE HOUSEHOLDS.**

~~Food Stamp eligibility can be determined before a public assistance eligibility determination is made.~~ The Food Stamp application must not be delayed or denied because of a delayed public assistance decision. ~~If a Food Stamp household might be categorically eligible, the application cannot be denied until thirty (30) days after the application date.~~ (3-17-22)( )

**184. -- 194. (RESERVED)**

**195. DISASTER CERTIFICATION.**

When allowed by FNS, under ~~the authority of~~ Section 302(a) of the Disaster Relief Act of 1974, the Department can certify households affected by a natural disaster. If the Secretary of USDA declares a disaster area, the Department will follow disaster instructions issued by the USDA. (3-17-22)( )

**196. -- 199. (RESERVED)**

**200. NONFINANCIAL CRITERIA.**

Nonfinancial criteria are identification, residency, Social Security Number, citizenship, and work requirements. Households must meet these nonfinancial criteria to be eligible for Food Stamps. ( )

**201. IDENTIFICATION.**

The person making application for Food Stamps, ~~including an authorized representative,~~ must prove identity. ~~The authorized representative, applying on behalf of a household, must prove identity. If an authorized representative is used, the identity of the head of the household must also be proved.~~ Proof includes a driver's license, school identification, wage stubs, and birth certificates. The Department will accept other reasonable proof of identity. (3-17-22)( )

**202. RESIDENCY.**

A household must live in Idaho when ~~it~~ ~~applies~~ ~~ing~~ for Food Stamps. A person can get Food Stamps as a member of only one (1) household a month. (3-17-22)( )



**01. Place of Residency.** ~~Households must live in the project area in which they make application.~~ An eligible Food Stamp household is not required to live in a permanent dwelling or have a fixed mailing address. There is no residence duration requirement. (3-17-22)( )

**02. Vacationing Persons Not Residents.** Persons in Idaho for vacation only are not residents for Food Stamp eligibility. Vacation is the period a household spends away from their usual activity, work, or home. ~~Vacation is taken~~ for travel, rest, or recreation. (3-17-22)( )

**03. Different Physical and Mailing Addresses.** ~~Different.~~ The physical ~~address~~ and ~~the~~ mailing addresses of a Food Stamp household can be different. If the mailing address is not the household's physical address, the household must provide proof of the physical address. (3-17-22)( )

**203. SOCIAL SECURITY NUMBER (SSN) REQUIREMENT.**

**01. Expectations.** Before certification, households must provide the Department the SSN, or proof of application for SSN, for each household member. If a household member has more than one (1) SSN, ~~they~~ must provide all ~~of his~~ SSNs. Each SSN must be verified by the ~~Social Security Administration (SSA)~~. A household member with an unverified SSN is not eligible for Food Stamp benefits. The ineligible person's income and resources must be counted in the Food Stamp budget. If benefits are reduced or ended, because one (1) or more persons fail to meet the SSN requirement, the household must be notified in writing. (3-17-22)( )

**02. Good Cause for Not Applying for SSN.** If a household member can show good cause why an SSN application was not completed in a timely manner, an extension must be granted to allow ~~him~~ ~~them~~ to receive Food Stamp benefits for one (1) month in addition to the month of application. Good cause for failure to apply must be shown monthly ~~in order~~ for such a household member to continue to participate. ~~Good cause is described below:~~ (3-17-22)( )

**204. CITIZENSHIP AND QUALIFIED NON-CITIZEN REQUIREMENTS.**

To be eligible for Food Stamps, an individual must meet the requirements ~~specified in under~~ 7 CFR 273.4, "Citizenship and alien status." ~~In addition, special immigrants from Iraq and Afghanistan have refugee status under Public Law 111-118, Subsection 8120.~~ (3-17-22)( )

**205. WRITTEN DECLARATION OF CITIZENSHIP OR IMMIGRATION STATUS.**

To get Food Stamps, one (1) adult household member must certify by signing a statement, under penalty of perjury, regarding the citizenship and immigration status of household members applying for benefits. ( )

**206. PROOF OF PROPER IMMIGRATION STATUS.**

**01. Expectations.** Households are required to submit documents to verify the immigration status of the legal non-citizen applicants. ~~An alien number, by itself, is not considered proof of immigration status.~~ (3-17-22)( )

**02. Failure to Provide Legal Non-Citizen Documents.** If a household says it is unable or unwilling to provide legal non-citizen status documents for a legal non-citizen household member, the legal non-citizen member must be classified as an ineligible legal non-citizen. ( )

**207. NON-CITIZEN ELIGIBILITY PENDING VERIFICATION.**

When ~~the applicant or an application is delayed after~~ the Department has submitted a request to a federal agency for proof of eligible alien status, the Department must certify the person applying as eligible for Food Stamps pending the results of the investigation. The certification can last up to six (6) months from the date of the original request for proof. (3-17-22)( )

**208. -- 211. (RESERVED)**

**212. FOOD STAMP HOUSEHOLDS.**

A Food Stamp household is composed of a person, or group of persons, applying for or getting Food Stamps. The

composition of Food Stamp households is listed below: ( )

01. **A Person Living Alone.** ~~A person living alone.~~ (3-17-22)( )
02. **Living with Others Preparing Separate Meals.** ~~Preparing Separate Meals. A p~~ Person(s) ~~or persons~~ living with others, but customarily purchasing food and preparing meals separately from the others. (3-17-22)( )
03. **Living with Others, But Paying for with Furnished Meals.** ~~A p~~ Person(s) ~~or persons~~ living with others and being furnished both meals and lodging. The person(s) ~~or persons~~ pays less than the thrifty food plan. (3-17-22)( )
04. **Living Together ~~and~~ Preparing Common Meals.** A group of persons who live, purchase food, and customarily prepare meals together for home consumption. (3-17-22)( )
05. **Women Living in Shelter.** Women, or women with their children, temporarily residing in a shelter for battered women and children. ( )
06. **Living in ~~Drug or Alcohol~~ Substance Use Disorder Treatment Center.** Person living in a publicly operated community health center or in a private nonprofit center for ~~drug addiction or alcoholic substance use disorder~~ treatment and rehabilitation. (3-17-22)( )
07. **Resident of Group Living Center.** Person residing in a group living arrangement center certified by the Department. ( )

### 213. SEPARATE FOOD STAMP HOUSEHOLD COMPOSITION FOR RELATED MEMBERS.

One (1) of the conditions below must be met for related persons living together to be separate Food Stamp households. ( )

01. **Children Age Twenty-Two and Older Living With Parents.** ~~Children age twenty-two (22) and older, living with their parents, e~~ C can be separate Food Stamp households. The households must purchase and prepare their food separately. (3-17-22)( )
02. **Households Must Prepare Food Together Because of Age and Disability.** Households that must purchase and prepare food together because one (1) household contains a person sixty (60) years ~~of age old~~ or older unable to purchase and prepare meals because of a disability, can be separate Food Stamp households. The spouse of the disabled person must be considered a member of that person's household. These households must meet the following conditions:- ( )
  - a. The disability must be permanent under the Social Security Act or a nondisease-related, severe permanent disability.- ( )
  - b. The income of the household, which does not contain the person unable to purchase and prepare meals separately, must not exceed one hundred sixty-five percent (165%) of the net monthly income limit for the household size. To count income for the one hundred sixty-five percent (165%) net monthly income standard, ~~E~~ xclude the income of the disabled person and ~~his their~~ spouse.- ( )
  - c. Count all available income to the household not containing the disabled person. Compare the net monthly income eligibility standard for that size household. (3-17-22)( )

### 214. CHILD CUSTODY.

For a child ~~who is~~ under ~~the age of~~ eighteen (18) years old, the parent ~~who has with~~ primary physical custody is eligible to receive Food Stamp benefits for that child. If both parents request food stamp benefits for the child, primary custody is determined by where the child is expected to spend fifty-one percent (51%) or more of the nights during a certification period. When only one (1) parent applies for food stamp benefits, the child may be included in that parent's household even though they do not have primary physical custody of the child. (3-17-22)( )

**215. PERSONS NOT ELIGIBLE FOR SEPARATE FOOD STAMP HOUSEHOLD STATUS.**

Persons listed below cannot be separate Food Stamp households. For Food Stamps, they are part of the household where they live. ( )

**01. Spouses.** ~~Spouses are not separate Food Stamp households.~~ (3-17-22)( )

**02. Boarder.** ~~Boarders are not separate Food Stamp households.~~ (3-17-22)

**03. Parents and Children Together.** Children under age twenty-two (22), living together with their parents, ~~are not separate Food Stamp households.~~ Parents and children living together include natural, adopted, or stepchildren. ~~Parents and children living together include natural, adopted, or stepparents.~~ (3-17-22)( )

**04. Child Under Age Eighteen Under Parental Control.** A child under age eighteen (18) and under parental control of an adult household member ~~is not a separate household,~~ unless the child is a foster child. (3-17-22)( )

**216. ELDERLY OR DISABLED FOOD STAMP HOUSEHOLD MEMBERS.**

To be counted as an elderly or disabled Food Stamp household member, the person must meet one (1) of the ~~criteria listed below~~ following: (3-17-22)( )

**01. Age Sixty or Older.** ~~Age sixty (60) or older.~~ (3-17-22)( )

**02. Entitled to SSI Benefits.** ~~Entitled to Supplemental Security Income (SSI) benefits.~~ This includes SSI presumptive disability payments, SSI emergency advance payments, or special SSI status. (3-17-22)( )

**03. Entitled to Social Security Payments Based on Disability or Blindness (RSDI).** ~~Entitled to Social Security payments based on disability or blindness.~~ (3-17-22)( )

**04. State Supplement.** Entitled to ~~S~~state or ~~F~~federally funded State supplement payments to the SSI program such as AABD. (3-17-22)( )

**05. Entitled to Medicaid Based on SSI-Related Disability or Blindness.** ~~Entitled to Medicaid based on SSI-related disability or blindness.~~ (3-17-22)( )

**06. Disability Retirement.** Entitled to ~~F~~federal or ~~S~~state funded disability retirement benefits because of a disability considered permanent by ~~the Social Security Administration.~~ (3-17-22)( )

**07. Disabled Veteran.** A veteran with a service- or nonservice-connected disability rated or paid as total. (3-17-22)( )

**08. Veteran Needing Aid and Attendance.** A veteran considered in need of regular aid and attendance or permanently housebound under USC Title 38 ~~of the U.S. Code.~~ (3-17-22)( )

**09. Veteran's Surviving Spouse.** ~~A veteran's surviving spouse i~~n need of aid and attendance or permanently housebound. (3-17-22)( )

**10. Veteran's Surviving Child.** ~~A veteran's surviving child p~~ermanently incapable of self-support under USC Title 38 ~~of the U.S. Code.~~ (3-17-22)( )

**11. Veteran's Survivor Entitled.** A veteran's surviving spouse or child entitled to receive payment for a service-connected death under USC Title 38 ~~of the U.S. Code.~~ The veteran's surviving spouse or child must be permanently disabled under Section 221(i) of the Social Security Act. A veteran's surviving spouse or child entitled to pension benefits for a nonservice death under USC Title 38 ~~of the U.S. Code.~~ The veteran's surviving spouse or child must be permanently disabled under Section 221(i) of the Social Security Act. "Entitled" refers to veterans, surviving spouses, and children receiving pay or benefits, or who have been approved for payments, but are not yet receiving them. (3-17-22)( )

**12. Railroad Retirement and Medicare.** Entitled to an annuity payment under Section 2(a)(1)(iv) of the Railroad Retirement Act of 1974 and determined eligible for Medicare by the Railroad Retirement Board. ( )

**13. Railroad Retirement and Disability.** Entitled to an annuity payment under Section 2(a)(1)(v) of the Railroad Retirement Act of 1974 and is determined disabled by the Board ~~according to~~ under SSI criteria. (3-17-22)( )

**217. NONHOUSEHOLD MEMBERS.**

Nonhousehold members are persons not counted in determining Food Stamp household size. Their income and resources do not count toward the Food Stamp household. Nonhousehold members may be eligible as a separate household. ~~Nonhousehold members and~~ are listed below: (3-17-22)( )

**01. Roomers.** A person who pays for lodging, but not meals. ( )

**02. Live-In Attendants.** A person living with a household to provide medical, housekeeping, child care, or other similar services. ( )

**03. Ineligible Students.** A person between the ages of eighteen (18) and fifty (50), physically and intellectually fit, enrolled at least half-time in an institution of higher education, and not meeting Food Stamp eligibility requirements for students. ( )

**04. Residents of Institutions.** ~~A resident of an institution is not a member of the Food Stamp household.~~ A resident of an institution is an ineligible household member because the institution provides the resident over fifty percent (50%) of three (3) meals daily, as part of the normal services. The institution is not allowed to accept Food Stamps. (3-17-22)( )

**218. PERSONS DISQUALIFIED AS FOOD STAMP HOUSEHOLD MEMBERS.**

Persons disqualified as Food Stamp household members must not participate in the Food Stamp program. Disqualified household members ~~are not counted in the household size. Disqualified household members' income and resources are counted. Disqualified household members are listed below:~~ include, but are not limited to, sanctioned individuals, fleeing felons, and ineligible non-citizens. Treatment of disqualified household members is described under 7 CFR 273.11(c). (3-17-22)( )

**01. Ineligible Legal Non-Citizen.** ~~Ineligible legal non-citizens not meeting citizenship or eligible legal non-citizen requirements.~~ (3-17-22)

**02. Persons with Citizenship Questionable.** ~~Persons refusing to sign a declaration attesting to citizenship or legal non-citizen status.~~ (3-17-22)

**03. Person Refusing SSN.** ~~Persons disqualified for failure or refusal to provide a Social Security Number.~~ (3-17-22)

**04. JSAP or Work Registration Noncompliance.** ~~Persons disqualified for failure to comply with JSAP or work registration requirements.~~ (3-17-22)

**05. Persons With IPV.** ~~Persons disqualified for an Intentional Program Violation (IPV).~~ (3-17-22)

**06. Voluntary Quit or Reduction of Hours of Work.** ~~Persons disqualified for a voluntary quit or reduction in hours of work.~~ (3-17-22)

**07. ABAWD Not Meeting Work Requirement.** ~~Persons who have received three (3) months of Food Stamp benefits in a three (3) year period without meeting the ABAWD work requirement.~~ (3-17-22)

**08. Fugitive Felon.** ~~Individuals who are fleeing to avoid prosecution or custody for a crime, or an attempt to commit a crime, that would be classified as a felony (or in the State of New Jersey, a high misdemeanor) or who are violating a condition of probation or parole under a federal or state law.~~ (3-17-22)

~~09. Drug Convicted Felon. Individuals convicted under federal or state law of any offense classified as a felony involving the possession, use or distribution of a controlled substance when they do not comply with the terms of a withheld judgment, probation or parole. The felony must have occurred after August 22, 1996. (3-17-22)~~

~~10. Failure to Cooperate in Paternity Establishment or Obtaining Support. Persons disqualified for failure to cooperate in establishing paternity and obtaining support for a child under eighteen (18). (3-17-22)~~

**219. CIRCUMSTANCES UNDER WHICH FOOD STAMP PARTICIPATION IS PROHIBITED.**

**01. Prohibition from Receiving Food Stamp Benefits.** An individual is prohibited from receiving Food Stamp benefits at the time of application if they: (3-17-22)( )

- a. Receives tribal commodities; (3-17-22)( )
- b. ~~Is~~Are incarcerated; (3-17-22)( )
- c. ~~Is~~Are in an institution; (3-17-22)( )
- d. ~~Is~~Are in foster care and the foster parents are receiving a cash benefit for providing care and maintenance for the child; (3-17-22)( )
- e. Receives Food Stamp benefits in another household; (3-17-22)( )
- f. ~~Is~~Are deceased; or ( )
- g. Receives cash benefits in a TAFI Caretaker Relative household. (3-17-22)( )

**02. Prohibited Participation During the Certification Period.** If the Department learns of prohibited participation during the certification period, it will act to end benefits for that individual. ( )

**220. -- 225. (RESERVED)**

**226. JOB SEARCH ASSISTANCE PROGRAM (JSAP).**

~~The JSAP program is designed to help Food Stamp recipients become self sufficient. (3-17-22)~~

**01. JSAP Status.** All household members, unless exempt, must participate in JSAP. ~~Household, including~~ members who are on strike ~~must participate in JSAP, and M~~ members who are not migrants in the job stream ~~must participate in JSAP. The Department D~~ determines the JSAP status of a participant at certification, a six-month or twelve-month contact, recertification, and when household changes occur. (3-17-22)( )

**02. JSAP Information.** The Department will explain the JSAP requirement, rights, responsibilities, and the result of failure to comply. ( )

**227. EXEMPTIONS FROM JSAP.**

~~Exemptions from JSAP are listed in Subsections 227.01 through 227.13 of these rules. (3-17-22)~~

**01. Parents or Caretakers Responsible for the Care of a Child Under Six Years ~~of Age Old.~~ A ~~parent or caretaker responsible for the care of a dependent child under age six (6) is exempt from JSAP.~~ If the child becomes six (6) during the certification period, the parent or caretaker must register for JSAP at the next scheduled six-month or twelve-month contact or recertification, unless exempt for another reason. (3-17-22)( )**

**02. Parents and Caretakers of an Incapacitated Person.** A parent or caretaker responsible for the care of a person incapacitated due to illness or disability is exempt from JSAP. ( )

**03. Persons Who Are Incapacitated.** A person ~~who is~~ physically or intellectually unfit for employment is exempt from JSAP. ~~If a disability is claimed which is not evident, proof to support the disability can~~

~~be required. Acceptable proof includes receipt of permanent or temporary disability benefits, or a statement from a physician or licensed or certified psychologist.~~ (3-17-22)( )

**04. Students Enrolled Half-Time.** A student ~~who is~~ eighteen (18) years or older is exempt from JSAP if ~~they~~: (3-17-22)( )

a. ~~He is~~ **Are** enrolled at least half-time in any institution of higher learning and if ~~they~~ meets the definition of an eligible student in Section 282 of these rules; or (3-17-22)( )

b. ~~He is~~ **Are** enrolled at least half-time in any other recognized school or training program. (3-17-22)( )

c. ~~He r~~ **Remains** enrolled during normal periods of class attendance, vacation, and recess. If ~~they~~ graduates, enrolls less than half-time, ~~is are~~ suspended or expelled, drops out, or does not intend to register for the next normal school term (excluding summer), ~~they~~ must register for work at the next scheduled six-month or twelve-month contact or recertification. (3-17-22)( )

**05. SSI Applicants.** ~~A person who is applying for SSI is~~ **Are** exempt from JSAP until SSI eligibility is determined. (3-17-22)( )

**06. Persons Who Are Employed or Self-Employed.** ~~A person who is employed is~~ **Are** exempt from JSAP if ~~they are~~: (3-17-22)( )

a. ~~He is w~~ **Working** at least thirty (30) hours per week; ~~or~~ (3-17-22)( )

b. ~~He is r~~ **Receiving** earnings equal to the ~~F~~ederal minimum wage multiplied by thirty (30) hours; or (3-17-22)( )

c. ~~He is a~~ **A** migrant or seasonal farm worker under contract or agreement to begin employment within thirty (30) days. (3-17-22)( )

~~**07. Persons Who Are Self-Employed.** A person who is self-employed is exempt from JSAP when the person is working a minimum of thirty (30) hours per week and is receiving earnings equal to or greater than the Federal minimum wage multiplied by thirty (30) hours.~~ (3-17-22)

~~**087. Persons in Treatment for a Substance Use Disorder.** A regular participant in a ~~drug or alcohol substance use disorder~~ treatment and rehabilitation program is exempt from JSAP.~~ (3-17-22)( )

~~**098. Unemployment Insurance (UI) Applicant/Recipient.** A person receiving UI is exempt from JSAP. A person applying for, but not receiving UI, is exempt from JSAP if ~~they is are~~ required to register for work with the Department of Commerce and Labor as part of the UI application process.~~ (3-17-22)( )

~~**109. Children Under Age Sixteen.** ~~A child under age sixteen (16) is~~ **Are** exempt from JSAP. A child who turns sixteen (16) within a certification period must register for JSAP at the six-month or twelve-month contact or recertification, unless exempt for another reason.~~ (3-17-22)( )

~~**110. Persons Age Sixteen or Seventeen.** ~~A household member age sixteen (16) or seventeen (17) is~~ **Are** exempt from JSAP if ~~they is are~~ attending school at least half-time, or ~~is are~~ enrolled in an employment and training program, including GED, at least half-time.~~ (3-17-22)( )

~~**121. Participants Age Sixty or Older.** ~~A participant age sixty (60) or older is~~ **Are** exempt from JSAP.~~ (3-17-22)( )

~~**132. Pregnant Women.** ~~A pregnant woman i~~ **In** their third trimester ~~is are~~ exempt from JSAP.~~ (3-17-22)( )

**228. DEFERRALS FROM JSAP FOR HOUSEHOLD MEMBERS PARTICIPATING IN TAFI.**

Deferrals from JSAP for household members participating in the TAFI program are listed ~~in Subsections 228.01 through 228.03~~ below. (3-17-22)( )

- 01. Reasonable Distance.** Appropriate child care is not available within a reasonable distance from the participant's home or work site. ( )
- 02. Relative Child Care.** Informal child care by relatives or others is not available or is unsuitable. ( )
- 03. Child Care Not Available.** Appropriate and affordable child care is not available. ( )

**229. PARTICIPANTS LOSING JSAP EXEMPT STATUS.**

If an exempt household member becomes mandatory, the Department must notify the participant of JSAP requirements. ~~Mandatory JSAP participants must sign a JSAP agreement.~~ (3-17-22)( )

**230. -- 235. (RESERVED)**

**236. GOOD CAUSE.**

A mandatory participant may get a deferral from JSAP requirements, if the Department determines a valid reason exists. ( )

**237. SANCTIONS FOR FAILURE TO COMPLY WITH JSAP WORK PROGRAM REQUIREMENTS.**

When a JSAP participant fails or refuses to comply with work program requirements without good cause, sanctions listed ~~in Subsections 237.01 and 237.02 of these rules~~ below must be applied. In determining which sanction to impose, sanctions previously imposed for voluntary quit or reduction in work hours ~~as described in~~ under Section 271 of these rules must be considered. (3-17-22)( )

**01. Noncomplying Household Member.** The participant who commits the work program violation is excluded as a household member when determining the Food Stamp allotment. The person cannot receive Food Stamps, but ~~his~~ their income and resources are counted in the Food Stamp computation for the household. The person must serve a minimum sanction period plus take corrective action to become eligible for Food Stamps again. If the sanctioned household member becomes exempt from JSAP requirements, the Department will end the sanction. (3-17-22)( )

- a.** First work program violation. A minimum sanction period of one (1) month is imposed. ( )
- b.** Second work program violation. A minimum sanction period of three (3) months is imposed. ( )
- c.** Third and subsequent work program violations. A minimum sanction period of six (6) months is imposed. ( )

**02. Joins Another Household.** If a sanctioned household member leaves the original household and joins another Food Stamp household, treat the sanctioned member as an excluded household member. The person cannot receive Food Stamps, but ~~his~~ their income and resources are counted in the Food Stamp computation for the household. The person is excluded for the rest of the sanction period and until corrective actions are taken. (3-17-22)( )

- 03. Closure Reason.** The household must be informed of the reason for the closure. ( )
- 04. Sanction Notice.** The household must be informed of the proposed sanction period. ( )
- 05. Sanction Start.** The household must be informed the sanction will begin the first month after timely notice. ( )
- 06. Actions to End Sanction.** The household must be informed of the actions the household can take to end the sanction. ( )

07. **Fair Hearing.** The household must be informed of the right to a fair hearing. ( )

**238. NOTICE OF SANCTIONS FOR FAILURE TO COMPLY WITH JSAP.**

~~Send the household a~~ Notice of Decision is sent when a participant fails to comply with JSAP requirements. The Notice of Decision must contain data listed ~~in Subsections 238.01 through 238.04~~ below. ~~If Notice of Decision is sent, and the Department proves~~ the member complied by before the effective date of the action, ~~the action to end Food Stamps~~ sanction does not take effect. The Notice of Decision must: (3-17-22)( )

01. Include the Proposed Sanction Period. ~~The Notice of Decision must include the proposed sanction period.~~ (3-17-22)( )

02. Include the Reason for Sanction. ~~The Notice of Decision must include the reason for sanction.~~ (3-17-22)( )

03. Include the Actions the Sanctioned Person Takes to End Sanction. ~~The Notice of Decision must include the actions the sanctioned person must take to end the sanction.~~ (3-17-22)( )

04. Tell the Household of its Right to Appeal Fair Hearing. ~~The Notice of Decision must tell the household of its right to a fair hearing.~~ (3-17-22)( )

**239. RIGHT TO APPEAL SANCTION.**

The participant has the right to appeal the decision to sanction. The participant may contest a decision of mandatory status or a denial, reduction, or termination of benefits, due to failure to comply with JSAP. Appeals are conducted under ~~Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, Section 350, "Contested Case Proceedings and Declaratory Rulings."~~ The Department will notify JSAP of the fair hearing. (3-17-22)( )

**240. JSAP SANCTION BEGINS.**

The sanction period begins the first month after the Notice of Decision unless a fair hearing is requested. ( )

**241. ENDING SANCTIONS FOR FAILURE TO COMPLY WITH JSAP.**

Household members sanctioned for not complying with JSAP are ineligible until a condition listed below is met. ( )

01. **Fair Hearing Reversal.** Sanction ends if a fair hearing reverses the sanction. ( )

02. **Sanctioned Member Becomes Exempt.** Sanction ends if the sanctioned member becomes exempt from JSAP. ( )

03. **Member Complies With JSAP.** Sanction ends if the member, who refused to comply with a JSAP requirement, complies. The member must complete corrective action and serve the minimum sanction period. ( )

**242. CORRECTIVE ACTION FOR WORK PROGRAMS.**

A mandatory participant can requalify for Food Stamps after a sanction by becoming exempt from work requirements, or serving the sanction period and correcting noncompliance with JSAP. ~~The participant must contact the Department and request an opportunity to comply. The participant must show that failure to comply has ended. Before certifying failure to comply has ended, the Department may require the participant to attend an assigned activity for up to two (2) weeks, to show willingness to comply with work program requirements.~~ (3-17-22)( )

243. -- 250. (RESERVED)

**251. ABLE-BODIED ADULTS WITHOUT DEPENDENTS (ABAWD) WORK REQUIREMENT.**

To participate in the Food Stamp program, a person must meet one (1) of the ~~conditions in Subsections 251.01 through 251.05 of this rule~~ following. A person who does not meet one (1) of these conditions may not participate in the Food Stamp program as a member of any household for more than three (3) full months (consecutive or otherwise) in a fixed thirty-six (36) month period. (3-17-22)( )



**01. Work at Least Eighty Hours per Month.** The person must work at least eighty (80) hours per month. The definition of work ~~under Section 251 of this rule~~ is any combination of: (3-17-22)( )

- a. Work in exchange for money. ( )
- b. Work in exchange for goods or services, known as “in-kind” work. ( )
- c. Unpaid work, with a public or private non-profit agency. ( )

**02. Participate in JSAP or Another Work Program.** The person must participate in and comply with the requirements of the JSAP program (other than job search or job readiness activities), the WIOA program, a program under Section 236 of the Trade Act of 1974, or another work program recognized by the Department. The person must participate for at least eighty (80) hours per month. ( )

**03. Combination of Work and Work Programs.** The person must work and participate in a work program. Participation in work and work programs must total at least eighty (80) hours per month. ( )

**04. Participate in Work Opportunities.** The person must participate in and comply with the requirements of a Work Opportunities program. ( )

**05. Residents of High Unemployment Areas.** ABAWDs residing in a county identified by the Department as having high unemployment or lack of jobs are may not be subject to the three (3) month limitation of benefits. ABAWDs residing in these counties are subject to JSAP work requirement ~~but will not lose Food Stamp eligibility after three (3) months if they participate fewer than eighty (80) hours per month. An ABAWD residing in a high unemployment area must participate according to his plan.~~ (3-17-22)( )

**252. PROOF REQUIRED FOR ABAWDs.**

The Department requires proof of compliance with the ABAWD requirements. If there is evidence the ABAWD got Food Stamps in another state, the Department will get proof of the number of countable months from that state, before certification. A written or verbal statement from the other state agency of countable months is acceptable proof. (3-17-22)( )

~~**01. Proof of Hours Worked.** Each month the ABAWD must supply proof of work hours, participation in work programs, or participation in work opportunities. (3-17-22)~~

~~**02. Food Stamp Months in Another State.** If there is evidence the ABAWD got Food Stamps in another state, get proof of the number of countable months from that state, before certification. A written or verbal statement from the other state agency of countable months is acceptable proof. (3-17-22)~~

**253. ABAWD GOOD CAUSE.**

The work requirement is met if an ABAWD would have worked at least eighty (80) hours per month but missed work for good cause. The absence from work must be temporary. The ABAWD must keep the job. Circumstances beyond control of the ABAWD are the basis of good cause. These include illness, illness of a household member requiring the presence of the ABAWD, household emergency, and lack of transportation. ( )

**254. REPORTING ABAWD CHANGES.**

ABAWDs must report within the first ten (10) days of the month following the date of change if total work or work program hours drop below eighty (80) hours per month. (3-17-22)( )

**255. REGAINING ELIGIBILITY.**

ABAWDs whose three (3) month eligibility expires may regain eligibility for Food Stamps. During any thirty (30) consecutive days, the person must meet one (1) of the work requirements ~~in Subsections 255.01 and 255.02 below.~~ The Department will prorate Food Stamp benefits from the date the person regains eligibility. ABAWDs must continue to meet the work requirement to get Food Stamps, or meet conditions for the three (3) additional months. There is no limit on the number of times an ABAWD may regain and maintain eligibility by meeting the work requirement. (3-17-22)( )

01. **Work Eighty Hours.** The person must work eighty (80) or more hours per month. ( )

02. **Participate in JSAP.** The person must participate in and comply with the requirements of the JSAP program (other than job search or job search training), the WIOA program, or a program under Section 236 of the Trade Act of 1974 for eighty (80) or more hours per month. ( )

**256. THREE ADDITIONAL MONTHS OF FOOD STAMPS AFTER REGAINING ELIGIBILITY.**

A person who regained eligibility under Section 255 of these rules, but is no longer fulfilling the ABAWD work requirements in Section 251 of these rules through no fault of ~~his~~ their own, may get Food Stamps for an additional three (3) consecutive months. For an applicant, the three (3) consecutive months begin the first full month of benefits. For a participant, the three (3) consecutive months begin the month following the month the participant no longer meets the work requirements. A person is eligible for the additional three (3) consecutive months only once in a thirty-six (36) month period. (3-17-22)( )

**257. PERSONS NOT CONSIDERED ABAWD.**

Persons meeting any of the following condition in Subsections 257.01 through 257.04 of this rule are not considered ABAWD. (3-17-22)( )

01. **Age.** Persons under eighteen (18) and ~~fifty (50)~~ fifty-three (53) years ~~of age~~ old or older. Beginning October 1, 2024, the age limit increases to fifty-five (55). (3-17-22)( )

02. **Disability.** Persons medically certified as physically or intellectually unfit for employment. ~~Proof of the disability is required.~~ A person is medically certified as physically or intellectually unfit for employment if: (3-17-22)( )

a. Receiving temporary or permanent disability benefits issued by a government or private source. ( )

b. Obviously intellectually or physically unfit for employment, as determined by the Department. ( )

c. The person has a statement from a physician, physician's assistant, nurse, nurse practitioner, designated representative of the physician's office, licensed or certified psychologist, a social worker, or any other medical personnel the Department determines appropriate, verifying physical or intellectual unfitness for employment. ( )

03. All Persons Residing in a Household Where a Household Member Is Under Age Eighteen. ~~All persons residing in a household where a household member is under eighteen (18) years old.~~ (3-17-22)( )

04. Pregnant Persons. ~~Pregnant persons.~~ (3-17-22)( )

05. A homeless individual, as defined under 7 CFR 271.2. ( )

06. A veteran who served in the US Armed Forces and was discharged or released from service, regardless of the reason for discharge or release. ( )

07. An individual who was eighteen (18) years old or older (at a state agency's option), who at the time aged out of foster care program and who is under twenty-five (25) years old. ( )

**258. FOOD STAMPS ISSUED TO INELIGIBLE ABAWD.**

~~If an ineligible ABAWD gets a Food Stamp issuance, the issuance is an overissuance until the ABAWD pays it back in full. The overpaid months count against the ABAWD.~~ If benefits are paid to an ABAWD in error, the months count against the three- (3) month time limit until repaid. (3-17-22)( )

**259. STRIKES.**

Households must be denied Food Stamps if a member is unemployed because of a strike, unless the household was

eligible for or getting Food Stamps the day before the strike. ( )

**260. GOVERNMENT EMPLOYEES DISMISSED FOR STRIKE.**

State, federal, and local government employees dismissed because of joining in a strike against the governmental entity have voluntarily quit a job without good cause. ( )

**261. VOLUNTARY JOB QUIT.**

An employed household member who voluntarily quits a job without good cause is not eligible for Food Stamps. The Department is required to make a voluntary job quit determination when it learns that any employed household member has quit ~~his their~~ job and any of the following circumstances apply ~~that are listed in Subsections 261.01 through 261.02 of this rule.~~ (3-17-22)( )

**01. Voluntary Job Quit Timeframes.** The Department must make a voluntary job quit determination: ( )

- a. For any applicant who quits ~~his their~~ job within sixty (60) days of the application date. (3-17-22)( )
- b. For any new household member who quits ~~his their~~ job within the sixty (60) days prior to entering the household. (3-17-22)( )
- c. For any recipient who quits ~~his their~~ job at any time during the certification period. (3-17-22)( )

**02. Job Definition for Voluntary Job Quit.** The Department must make a voluntary job quit determination for any household member who is not exempt from work registration for any reason other than employment if: ( )

- a. ~~He~~They quit a job of at least thirty (30) hours a week; or (3-17-22)( )
- b. ~~His~~Their weekly earnings from the job ~~they~~ quit are equivalent to the ~~F~~federal minimum wage multiplied by thirty (30) hours. (3-17-22)( )

**262. VOLUNTARY REDUCTION IN WORK HOURS.**

An employed household member who voluntarily reduces hours of work without good cause is not eligible for Food Stamps. The Department is required to make a reduction in work hours determination when it learns that any employed household member has voluntarily reduced ~~his their~~ work hours and any of the following circumstances apply ~~that are listed in Subsections 262.01 through 262.02 of this rule.~~ (3-17-22)( )

**01. Voluntary Work Reduction Timeframe.** The Department must make a reduction in work hours determination if the hours of work were voluntarily reduced by a(n): (3-17-22)( )

- a. ~~By an a~~Applicant, within sixty (60) days of the application date. (3-17-22)( )
- b. ~~By a n~~New household member, within the sixty (60) days prior to entering the household. (3-17-22)( )
- c. ~~By a r~~Recipient, at any time during the certification period. (3-17-22)( )

**02. What Counts as a Significant Voluntary Work Reduction.** ~~In order f~~For any household member's eligibility for Food Stamps to be affected, the Department must determine that: (3-17-22)( )

- a. Prior to the voluntary reduction in hours, the job was at least thirty (30) hours a week; and ( )
- b. The hours of work have been voluntarily reduced to less than thirty (30) hours per week without good cause. ( )

263. -- 264. (RESERVED)

**265. SITUATIONS NOT CONSIDERED VOLUNTARY JOB QUIT OR REDUCTION OF WORK.**

Situations not counted as a voluntary job quit or reduction of work hours are listed below: ( )

**01. ~~The Person Ends~~ Self-Employment. ~~The person ends self-employment enterprise.~~ (3-17-22)( )**

**02. ~~Employer Demands Resignation and Person Resigns.~~ ~~A person resigns from a job at the demand of the employer.~~ (3-17-22)( )**

**03. ~~Laid Off From New Job.~~ A person quits a job, secures new employment at comparable salary or hours, and then is laid off ~~or loses the new job through no fault of their own.~~ ~~A person quits a job, secures new employment at comparable salary or hours and through no fault of his own loses the new job.~~ (3-17-22)( )**

**266. HOUSEHOLD MEMBER LEAVES DURING A PENALTY PERIOD.**

When the household member who committed a voluntary quit or reduction in hours penalty leaves the household, the penalty follows the household member who caused it. If the household member who committed the penalty joins another household, ~~he is~~ they are ineligible for the balance of the penalty period unless they meets the conditions stated in Subsection 275.01 of these rules. (3-17-22)( )

**267. GOOD CAUSE FOR VOLUNTARILY QUITTING A JOB OR REDUCING WORK HOURS.**

If a household member voluntarily quits a job, the Department will determine if the quit was for good cause. All facts and circumstances submitted by the household and the employer must be considered. Good cause ~~includes the reasons~~ are listed below: in 7 CFR 273.7(i)(3). (3-17-22)( )

**01. ~~Personal Difficulties.~~ ~~Personal difficulties include:~~ (3-17-22)**

**a. ~~Health problems;~~ (3-17-22)**

**b. ~~Structured drug and alcohol treatment;~~ (3-17-22)**

**e. ~~Jailed or necessary court appearances; and~~ (3-17-22)**

**d. ~~Conflicts with verified and practiced religious and ethical beliefs.~~ (3-17-22)**

**02. ~~Family Emergencies.~~ ~~Family emergencies include:~~ (3-17-22)**

**a. ~~Crisis in family health; and~~ (3-17-22)**

**b. ~~Child legal or behavioral problems.~~ (3-17-22)**

**03. ~~Environmental Barriers.~~ ~~Environmental barriers include:~~ (3-17-22)**

**a. ~~Weather conditions preventing the person from reaching the work site;~~ (3-17-22)**

**b. ~~Unexpected loss of transportation; and~~ (3-17-22)**

**e. ~~Housing or utility problems requiring immediate attention.~~ (3-17-22)**

**04. ~~Work Site Problems.~~ ~~Work site problems include:~~ (3-17-22)**

**a. ~~Temporary layoff from a regular, full-time job. The person must be able to return to the job within ninety (90) days;~~ (3-17-22)**

**b. ~~Work site conditions not meeting legal or local standards of health and safety, hours, pay, or~~**

benefits; and (3-17-22)

e. Alleged discrimination on the job site. (3-17-22)

~~05. Employment or School. The household member accepts employment, or enrolls at least half (1/2) time in any recognized school, training program, or an institution of higher education. (3-17-22)~~

~~06. Employment or School in Another Area. Another household member accepts employment in another area, requiring the household to move. Another household member enrolls at least half (1/2) time in a recognized school, a training program, or an institution of higher education in another area, requiring the household to move. (3-17-22)~~

~~07. Retirement. Persons under age sixty (60) resign, if the resignation is recognized as retirement. (3-17-22)~~

~~08. Full Time Job Does Not Develop. A person accepts a bona fide offer of a full time job. The job does not develop. The job results in employment of less than thirty (30) hours a week, or weekly earnings of less than the Federal minimum wage multiplied by thirty (30) hours. (3-17-22)~~

~~09. Temporary Pattern of Employment. Person leaves a job where workers move from one (1) employer to another, such as migrant farm labor or construction work. Households may apply for benefits between jobs, when work is not yet available at the new site. Even though the new employment has not actually begun, the previous quit is with good cause if it is the pattern of that type of employment. (3-17-22)~~

**268. PROOF OF JOB QUIT OR REDUCTION OF WORK HOURS.**

~~Request proof. Verification from the household is required if the household's job quit or reduction of work hours is questionable. The household is responsible for providing proof. If the household cannot get timely proof, offer assistance. Proof includes, but is not limited to, contacts with the previous employer or union organizations. If the employer cannot be contacted or the employer will not provide the information try to get the proof from a third party. In some cases, the household and the Department cannot prove the circumstances of the quit. This may occur because the employer cannot be located or refused to cooperate. This may include quits due to employer discrimination or unreasonable employer demands. In cases where When proof of the voluntary quit cannot be obtained, the household must not be denied Food Stamps on the basis of a voluntary quit or reduction of work hours. If a household member refuses, without good cause, to provide enough information to determine voluntary quit or work reduction, a penalty must be imposed. Impose the appropriate quit or reduction penalty. (3-17-22)( )~~

**269. (RESERVED)**

**270. PENALTY FOR APPLICANT QUITTING A JOB OR REDUCING WORK HOURS.**

If the Department determines a voluntary quit or reduction of work hours was not for good cause, the member who quit is not eligible for a ninety (90) day penalty period. The penalty period begins the date the household member quit. The applicant household must be told the job quit and work reduction penalty information listed below:

( )

01. Denial Reason. The household must be informed of the reason for the Food Stamp denial for the member. ( )

02. Sanction Period. The household must be informed of the proposed voluntary quit or work reduction sanction period. ( )

03. Fair Hearing. The household must be informed of the right to a fair hearing. ( )

04. Right to Reapply. The household must be informed of the right to reapply after the ninety (90) day penalty period. ( )

**271. PENALTY FOR RECIPIENT QUITTING A JOB OR REDUCING WORK HOURS.**

If the Department determines a member of the household voluntarily quit a job or reduced work hours, the penalty

listed in Subsection 271.01 of this rule must be imposed. Food Stamps must be reduced, beginning the first month after timely notice. The household must be told the information listed in ~~Subsections 271.02 through 271.06~~ this rule within ten (10) calendar days of the voluntary quit or reduction in work ruling. When determining the sanction to impose, previous sanctions for noncompliance with JSAP and work registration requirements as described in Section 237 of these rules must be considered. Previous sanctions for recipient voluntary quit or work reduction must also be considered. If the sanctioned household member becomes exempt from JSAP requirements, the Department will end the sanction. The voluntary quit sanction does not end if the sanctioned household member becomes exempt due to application or receipt of Unemployment Insurance. (3-17-22)( )

**01. Non-Complying Household Member.** The participant who commits the work program violation is excluded as a household member when determining the Food Stamp allotment. The person cannot receive Food Stamps, but his their income and resources are counted in the Food Stamp computation for the household. The person must serve a minimum sanction period plus take corrective action to become eligible for Food Stamps again. Corrective action includes: returning to work, increasing work hours to meet the work exemption, or completing required activities with ~~EWS~~ JSAP. (3-17-22)( )

- a. First work program violation. A minimum sanction period of one (1) month is imposed. ( )
- b. Second work program violation. A minimum sanction period of three (3) months is imposed. ( )
- c. Third and subsequent work program violation. A minimum sanction period of six (6) months is imposed. ( )

**02. Joins Another Household.** If a sanctioned household member leaves the original household and joins another Food Stamp household, the Department will treat the sanctioned member as an excluded household member. The person cannot receive Food Stamps, but his their income and resources are counted in the Food Stamp computation for the other household. The person is excluded for the rest of the sanction and until corrective actions are taken. (3-17-22)( )

**03. Closure Reason.** The household must be informed of the reason for the closure. ( )

**04. Sanction Notice.** The household must be informed of the proposed sanction period. ( )

**05. Sanction Start.** The household must be informed the sanction will begin the first month after timely notice. ( )

**06. Actions to End Sanction.** The household must be informed of the actions the household can take to end the sanction. ( )

**07. Fair Hearing.** The household must be informed of the right to a fair hearing. ( )

~~272. VOLUNTARY QUIT OR REDUCTION OF WORK HOURS DURING THE LAST MONTH OF THE CERTIFICATION PERIOD~~ PARTICIPANT VOLUNTARY QUIT OR REDUCTION OF WORK HOURS.

~~If the Department determines a member of the household voluntarily quit a job or reduced work hours, without good cause, in the last month of the six month or twelve month contact or certification period the voluntary quit or work reduction penalty is imposed. If it is discovered a household member voluntarily quit a job or reduced work hours without good cause during the certification period the Department must provide the individual with a notice of adverse action within ten (10) days after the determination of a quit or reduction in work effort. The individual will be disqualified according to the minimum mandatory sanction schedule under Subsection 271.01 of these rules.~~

(3-17-22)( )

~~**01. No Reapplication.** If the household does not apply for recertification in the last month of the six month or twelve month contact or certification, the appropriate penalty is imposed. Begin the penalty the first month after the last month of the certification. The penalty is in effect should the household apply during the penalty period.~~

(3-17-22)

~~02. Reapplication. If the household does apply for recertification in the last month of the six month or twelve month contact or certification period, the person quitting work or reducing hours is ineligible. The penalty is imposed, beginning the first month after the last month of the six month or twelve month contact or certification period. (3-17-22)~~

~~273. VOLUNTARY QUIT OR REDUCTION OF WORK HOURS NOT FOUND UNTIL THE LAST MONTH OF THE CERTIFICATION PERIOD.~~

~~The Department may find a household member voluntarily quit a job or reduced work hours, without good cause, before the last month of the certification period. If the voluntary quit or reduction is not found until the last month of the certification, the voluntary quit or reduction penalty must be determined. (3-17-22)~~

~~273 – 274. (RESERVED)~~

**275. ENDING VOLUNTARY QUIT WORK PROGRAM PENALTIES.**

Eligibility may be reestablished before the end of the penalty period for an otherwise eligible household member when they meets the conditions in Subsection 275.01 of this rule. Eligibility may be reestablished after a voluntary quit or work reduction penalty period has elapsed for an otherwise eligible household member when they meets a condition in Subsection 275.02 of this rule. (3-17-22)( )

**01. Ending Voluntary Quit or Reduction Penalty Before the End of the Penalty Period.** If the sanctioned household member becomes exempt from JSAP requirements, his their eligibility for Food Stamps may be reestablished. The voluntary quit penalty does not end if the sanctioned household member becomes exempt due to application or receipt of Unemployment Insurance. (3-17-22)( )

**02. Ending Voluntary Quit or Reduction Penalty After Penalty Period. ( )**

**a.** If the sanctioned household member gets a new job comparable in salary or hours to the job they quit, his their eligibility for Food Stamps may be reestablished. A comparable job may entail fewer hours or a lower net salary than the job which was quit. To be comparable, the hours for the new job cannot be less than thirty (30) hours per week and the salary or earnings for the new job cannot be less than Federal minimum wage multiplied by thirty (30) hours per week. (3-17-22)( )

**b.** If the sanctioned household member's hours of work are restored to more than thirty (30) hours per week before reduction, his their eligibility for Food Stamps may be reestablished. (3-17-22)( )

**c.** A sanctioned household member can requalify for Food Stamps after serving the minimum sanction period and completing corrective action. The participant must contact the Department and request an opportunity to correct the sanction. ~~The Department may require the participant to attend an assigned EWS activity for up to two (2) weeks to show his willingness to comply with work program requirements.~~ (3-17-22)( )

**276. FAILURE TO COMPLY WITH A REQUIREMENT OF ANOTHER MEANS - TESTED PROGRAM.**

Food Stamps must not increase when a failure to comply causes other means-tested benefits to decrease. Benefits from means-tested programs like TAFI may decrease due to failure to comply with a program requirement. Food Stamp benefits must not increase because of this income loss. If a reduction in benefits from another means-tested program occurs, the Department will verify the reason for the reduction. If the reason for the reduction cannot be verified, the Department will document the case record to reflect the good faith effort to verify the information. (3-17-22)( )

**277. PENALTY FOR FAILURE TO COMPLY WITH A REQUIREMENT OF ANOTHER MEANS - TESTED PROGRAM.**

To prevent an increase in Food Stamp benefits, penalties will be applied to a Food Stamp case for failure to comply with a requirement of another means-tested program such as TAFI. When a Food Stamp recipient fails to comply with a requirement of the TAFI program, the Department will count that portion of the benefit decrease attributed to the TAFI penalty. Conditions for ending the penalty are listed ~~in Subsections 277.01 through 277.03 of this rule below.~~ (3-17-22)( )

**01. Time-Limited TAFI Penalty.** If the TAFI penalty is time-limited, the Department will end the Food Stamp penalty when the TAFI penalty is ended. (3-17-22)( )

**02. Lifetime TAFI Penalty.** If the TAFI penalty is a lifetime penalty, apply the Food Stamp penalty for a length of time to match the remaining months of TAFI eligibility for the household. The Department will ~~End~~ the Food Stamp penalty if the household subsequently reapplies for TAFI and is denied for a reason other than the noncompliance that caused the TAFI penalty. (3-17-22)( )

**03. Member Who Caused the TAFI Penalty Leaves the Household.** The Department will ~~End~~ the Food Stamp penalty when the member who caused the TAFI penalty leaves the household. (3-17-22)( )

**278. COOPERATION IN ESTABLISHMENT OF PATERNITY AND OBTAINING SUPPORT.**

A natural or adoptive parent or other individual living with and exercising parental control over a minor child who has an absent parent must cooperate in establishing paternity for the child and obtaining support for the child ~~and themselves.~~ (3-17-22)( )

**279. FAILURE TO COOPERATE.**

When a parent or individual fails to cooperate in establishing paternity and obtaining support, they are not eligible to participate in the Food Stamp Program. ( )

**280. EXEMPTIONS FROM THE COOPERATION REQUIREMENT.**

The parent or individual will not be required to provide information about the absent or alleged parent or otherwise cooperate in establishing paternity or obtaining support if good cause for not cooperating exists. Good cause for failure to cooperate in obtaining support is listed below: ( )

**01. Rape or Incest.** Proof the child was conceived ~~as a result~~ because of incest or forcible rape. (3-17-22)( )

**02. Physical or Emotional Harm.** Proof the absent parent may inflict physical or emotional harm to the children, the participant, or individual exercising parental control. This must be supported by medical evidence, police reports, or as a last resort, an affidavit from a knowledgeable source. ( )

**03. Minimum Information Cannot be Provided.** Substantial and credible proof is provided indicating the participant cannot provide the minimum information regarding the non-custodial parent. ( )

**281 – 282. (RESERVED)**

**~~282. STUDENT DEFINED.~~**

~~A student must be between the ages of eighteen (18) and fifty (50). A student must be physically and intellectually fit. A student must be enrolled, at least half time, in an institution of higher education. An institution of higher education usually requires a high school or general equivalency diploma for enrollment. This includes colleges, universities, and vocational or technical schools at the post-high school level.~~ (3-17-22)

**283. STUDENT ENROLLMENT.**

A student is considered enrolled in an institution of higher education if participating in a regular curriculum there. Enrollment status of a student begins the first day of the school term for the institution of higher education ~~school term~~. The enrollment continues through normal periods of class attendance, vacation, and recess. Enrollment stops if the student graduates, is suspended or expelled, drops out, or does not intend to register for the next normal school term. Summer school terms are not normal school terms. (3-17-22)( )

**284. DETERMINING STUDENT ELIGIBILITY.**

To be eligible for Food Stamps, a student must meet at least one (1) of the ~~criteria listed below~~ following: (3-17-22)( )

**01. Employment.** The student: (3-17-22)( )



- a. ~~The student i~~s employed a minimum of eighty (80) hours per month and is paid for such employment; or (3-17-22)( )
- b. ~~The student i~~s self-employed a minimum of eighty (80) hours per month; and (3-17-22)( )
- c. ~~The student m~~ust earn at least the ~~F~~federal minimum wage times eighty (80) hours. (3-17-22)( )

02. **Work Study Program.** The student is in a ~~S~~sstate or ~~F~~federally financed work study program during the regular school year. The student exemption begins the month the school term begins, or the month the work study is approved, whichever is later. The exemption continues until the end of the month the school term ends, or it becomes known the student has refused an assignment. The student work study exemption stops when there are breaks of a full calendar month or longer between terms, without approved work study. The exemption only applies to months the student is approved for work study. (3-17-22)( )

03. **Caring for Dependent Child.** ~~The student is: responsible for the care of a dependent household member under age six (6). There must not be another adult in the household available to care for the child. Availability of adequate child care is not a factor. The student is responsible for the care of a dependent household member at least age six (6) but under age twelve (12). The Department must determine adequate child care is not available to enable the student to attend class and satisfy the twenty (20) hour work requirement. The student must be a single parent responsible for the care of a dependent child under the age of twelve (12). The student is enrolled full-time in an institution of higher education. Full-time enrollment is determined by the institution. Availability of adequate child care is not a factor.~~ (3-17-22)( )

- a. Responsible for the care of a dependent household member under the age of six (6). ( )
- b. Responsible for the care of a dependent household member who has reached the age of six (6), but is under age twelve (12) when the state agency has determined that adequate child care is not available to enable the student to attend class and comply with the eighty (80) hour work requirement. ( )
- c. A single parent enrolled in an institution of higher education on a full-time basis, as determined by the institution, and be responsible for the care of a dependent child under age twelve (12). ( )

04. **TAFI Participant.** The student gets cash benefits from the TAFI program. ( )

05. **Training.** The student is assigned to or placed in an institution of higher education through, or complying with, the following programs: WIOA ~~program~~, the JOBS ~~program~~, the JSAP ~~program~~, a program under Section 236 of the Trade Act of 1974, or a program for employment and training operated by a ~~S~~sstate or local government. (3-17-22)( )

285. **INELIGIBILITY OF FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.**  
~~A person is ineligible to receive Food Stamps for any month during which he meets a condition listed below. Individuals who are fleeing to avoid prosecution or custody for a crime, or an attempt to commit a crime, classified as a felony (or in the state of New Jersey, a high misdemeanor), or who are violating a condition of probation or parole under a federal or state law, cannot be considered eligible household members.~~ (3-17-22)( )

01. ~~Fleeing to Avoid Prosecution.~~ The person is fleeing to avoid prosecution for a crime which is a felony (or in New Jersey, a high misdemeanor) under the laws of the state he is fleeing. (3-17-22)

02. ~~Fleeing to Avoid Custody or Confinement After Conviction.~~ The person is fleeing to avoid custody or confinement after conviction for a crime which is a felony (or in New Jersey, a high misdemeanor) under the laws of the state he is fleeing. (3-17-22)

03. ~~Violating a Condition of Probation or Parole.~~ The person is violating a condition or probation or parole imposed under Federal or State law. (3-17-22)

286. **EFFECTIVE DATE OF INELIGIBILITY.**

~~Ineligibility of fugitive felons and probation and parole violators begins the earlier of the month a warrant, court order or decision, or decision by a parole board is issued finding the person is fleeing (or fled) to avoid prosecution, or custody or confinement after conviction or is violating (or violated) parole; or the first month the person fled to avoid prosecution, custody or conviction or violated a condition of probation or parole.~~ The effective date of disqualification for Food Stamps is the month following the date the Department has documented evidence the individual is fleeing or violating parole/probation. (3-17-22)( )

**287. INELIGIBILITY FOR A FELONY CONVICTION FOR POSSESSION, USE, OR DISTRIBUTION OF A CONTROLLED SUBSTANCE.**

~~Individuals convicted under federal or state law of any offense classified as a felony involving the possession, use, or distribution of a controlled substance can receive Food Stamps when they comply with the terms of a withheld judgment, probation, or parole. The felony must have occurred after August 22, 1996. Controlled substance felons not complying with the terms of a withheld judgment, probation, or parole are not eligible for Food Stamps. Count the income and resources of the disqualified individual in full of a felony involving the possession, use, or distribution of a controlled substance can receive Food Stamps when they comply with the terms of a withheld judgment, probation, or parole. Controlled substance felons who are not complying with the terms of a withheld judgment, probation, or parole are not eligible for Food Stamps.~~ (3-17-22)( )

288. -- 299. (RESERVED)

**300. RESOURCES DEFINED.**

Resources include, but are not limited to, cash, bank accounts, stocks, bonds, personal property, and real property. A household must have the right, authority, or power to change the resource to cash for the resource to be counted. The household must have the legal right to use the resource for support and maintenance for the resource to be counted. ( )

**301. DETERMINING RESOURCES.**

The resources of all household members are counted unless the resource is excluded. ( )

302. -- 304. (RESERVED)

**305. RESOURCE LIMIT.**

The Food Stamp resource limit is five thousand dollars (\$5,000) for Broad-Based Categorically Eligible households. Households that do not meet the requirements for Broad-Based Categorical Eligibility are subject to resource limits published by the ~~USDA Food and Nutrition Service.~~ (3-17-22)( )

306. -- 307. (RESERVED)

**308. EQUITY VALUE OF RESOURCES.**

Equity value is the current market value of a resource, minus any encumbrance. The current market value is the price the resource is expected to sell for, on the open market, in the geographic area involved. An encumbrance is a legally binding debt against property. The encumbrance on the property does not prevent the property owner from selling to a third party. ( )

**309. LIQUID RESOURCES.**

All liquid resources are counted, unless excluded. Liquid resources are listed below. ~~Liquid resources and~~ can be easily converted to cash. (3-17-22)( )

01. Cash on Hand. ~~Cash on hand.~~ (3-17-22)( )
02. All Bank and Credit Union Accounts. ~~Checking, savings and credit union accounts.~~ (3-17-22)( )
03. Lump Sum Payments. ~~Lump sum payments s~~Such as insurance, SSI, retirement, and income tax refund. (3-17-22)( )
04. Trusts. Unrestricted trust accounts and any available amounts from restricted trust accounts.

( )

05. **Stocks, less Fees for Transfer and Penalty for Early Sale.** ~~Stocks, less fees for transfer and penalty for early sale.~~ (3-17-22)( )

06. **Savings Bonds, Treasury Bonds, Commercial Bonds at Current Market Value.** ~~Savings bonds, treasury bonds, commercial bonds at current market value.~~ (3-17-22)( )

07. **Savings Certificates or Certificates of Deposit.** ~~Saving certificates or certificates of deposit issued by banks, credit unions, or other financial concerns, less the penalty for early withdrawal.~~ (3-17-22)( )

**310. NONLIQUID RESOURCES.**

Countable nonliquid resources are ~~listed below. Nonliquid resources are~~ resources not easily converted to cash **and are listed below.** (3-17-22)( )

01. **Real Property.** Equity value of real property (land and buildings, including mobile homes) unless specifically excluded. Property may be excluded if **the property is:** (3-17-22)( )

- a. ~~The property is u~~Used as a home. (3-17-22)( )
- b. ~~The property is i~~Income-producing, and the income is consistent with the property's fair market value. (3-17-22)( )
- c. ~~The property is e~~Essential to employment or self-employment. (3-17-22)( )
- d. ~~The property is u~~Used in connection with an excluded vehicle. (3-17-22)( )

02. **Vehicles.** Licensed and unlicensed automobiles, trucks, vans, motorcycles, self-propelled motor homes, snowmobiles, boats, aircraft, all-terrain vehicles, and mopeds. ( )

03. **Personal Property.** Personal property not otherwise excluded. Personal property includes trailers pulled by another means or campers placed on the bed of a truck or pickup. ( )

**311. FACTORS MAKING PROPERTY A RESOURCE.**

Property of any kind, including cash, can be a resource. ~~The property and~~ must meet all criteria listed below: (3-17-22)( )

01. **Ownership Interest.** A ~~client participant~~ must have ownership interest in property for it to be counted as a resource. Property is not a resource if the ~~client participant~~ does not own all or part of the property. (3-17-22)( )

02. **Legal Right to Spend or Convert Property.** A ~~client participant~~ must have a legal right to spend or convert property to cash. ~~Property is not a resource if the owner lacks the legal right to spend or convert property into cash.~~ Physical possession of property is not needed if the owner has the legal ability to spend or convert the property to cash. (3-17-22)( )

03. **Legal Ability to Use for Support and Maintenance.** Property is not a resource if it cannot legally be used for the owner's support and maintenance. ( )

312. -- 313. (RESERVED)

**314. JOINTLY OWNED RESOURCES.**

A resource owned jointly by members of two (2) or more households is counted in its entirety for each household, unless the household proves the resource is not available. If the household shows it has access to only a portion of a resource, that portion of the resource is counted. ( )

**315. JOINTLY OWNED RESOURCES EXCLUDED.**

A jointly owned resource is excluded, if the household shows it cannot sell or divide the resource without consent of the other owner, and the other owner will not sell or divide the resource. A jointly owned resource is excluded, if owned by a resident in a shelter for battered women and children and access to the resource requires agreement of a joint owner living in the former household. A vehicle, jointly owned by a household member and a person not living in the household, may be excluded. The household member must not have possession of the vehicle. The household member must not be able to sell the vehicle. ( )

**316. -- 320. (RESERVED)**

**~~321. RESOURCES OF DISQUALIFIED HOUSEHOLD MEMBERS.~~**

~~The household must report the resources of members disqualified for Food Stamps. The household must verify any questionable information. The resources of the disqualified person are included in determining the resource limit. Disqualified household members with resources counted toward the household limit are listed below: (3-17-22)~~

~~**01. Member Disqualified for IPV.** Resources of a household member disqualified for an intentional program violation are counted. (3-17-22)~~

~~**02. Member Disqualified for Failure to Comply with Work Requirements.** Resources of a household member disqualified for failing to comply with a work requirement are counted. (3-17-22)~~

~~**03. Member Ineligible Due to SSN.** Resources of a household member ineligible for refusing to get an SSN are counted. (3-17-22)~~

~~**04. Ineligible Legal Non-Citizen.** Resources of an ineligible legal non-citizen household member are counted. (3-17-22)~~

~~**05. Member Disqualified for Failure to Meet the ABAWD Work Requirement.** Resources of a household member disqualified for failure to meet the ABAWD work requirement are counted. (3-17-22)~~

~~**06. Member Disqualified for a Voluntary Quit or Reduction in Hours of Work.** Resources of a member disqualified for a voluntary quit or reduction of work are counted. (3-17-22)~~

~~**07. Member Disqualified as a Fugitive Felon or Probation or Parole Violator.** Resources of a member disqualified as a fugitive felon or probation or parole violator are counted. (3-17-22)~~

~~**08. Member Disqualified for Failure to Cooperate in Establishing Paternity and Obtaining Support.** Resources of a member disqualified for failure to cooperate in establishing paternity and obtaining support are counted. (3-17-22)~~

~~**09. Member Disqualified for Conviction of a Controlled Substance Felony.** Resources of individuals convicted under federal or state law of any offense classified as a felony involving the possession, distribution, or use of a controlled substance when they do not comply with the terms of a withheld judgment, probation, or parole are counted. The felony must have occurred after August 22, 1996. (3-17-22)~~

**~~322. RESOURCES OF NONHOUSEHOLD MEMBERS.~~**

~~Resources of nonhousehold members are not included when determining household resources. Resources of nonhousehold members are listed below: (3-17-22)~~

~~**01. Ineligible Student.** Resources of an ineligible student are not counted. (3-17-22)~~

~~**02. Boarder or Roomer.** Resources of a boarder or roomer are not counted. (3-17-22)~~

~~**03. Foster Child.** Resources of a foster child are not counted, if the child is not a member of the Food Stamp household. (3-17-22)~~

~~**04. Foster Adult.** Resources of a foster adult are not counted, if the adult is not a member of the Food Stamp household. (3-17-22)~~

323. LUMP SUM RESOURCES.

Nonrecurring lump sum payments are considered a resource in the month received, unless excluded under these rules. A household is not required to report changes in resources during a certification period. Some lump sum payments are listed below: ( )

- 01. **Retroactive Payments.** ~~Retroactive payments from:~~ (3-17-22)( )
  - a. Social Security. ( )
  - b. SSI. ( )
  - c. Public Assistance. ( )
  - d. Railroad Retirement Benefits. ( )
  - e. Unemployment Compensation Benefits. ( )
  - f. Child Support. ( )
- 02. **Insurance Settlements.** ~~Insurance settlements.~~ (3-17-22)( )
- 03. **Income Tax Refunds, Rebates, or Credits.** ~~Income tax refunds, rebates, or credits.~~ (3-17-22)( )
- 04. **Property Payments.** Lump sum payments and contract payments from sale of property. ~~Contract payments from the sale of property~~ are counted as income. (3-17-22)( )
- 05. **Security Deposits.** Refunds of security deposits on rental property or utilities. ( )
- 06. **Disability Pension.** Annual adjustment payments in VA disability pensions. ( )
- 07. **Vacation Pay.** Vacation pay, withdrawn in one (1) lump sum by a terminated employee. ( )
- 08. **Military Reenlistment Bonuses.** ~~Military re-enlistment bonuses.~~ (3-17-22)( )
- 09. **Job Corps Readjustment Pay.** ~~Job Corps readjustment pay.~~ (3-17-22)( )
- 10. **Severance Pay.** ~~Severance pay, p~~ Paid in one (1) lump sum to a former employee. (3-17-22)( )
- 11. **TAFI One-Time Cash Diversion Payment.** ~~The one-time TAFI cash diversion payment.~~ (3-17-22)( )

324. -- 333. (RESERVED)

334. VEHICLES.

~~Treat any vehicle that is used primarily for transportation and not for recreational use, as described in Subsections 334.01 and 334.02 of this rule.~~ The value of any vehicle that is primarily for recreational use counts toward the household's resource limit. All other vehicles in the household will have their values counted as provided in 7 CFR 273. (3-17-22)( )

- ~~01. Exclude One Vehicle Per Adult. The value of one (1) vehicle per adult in the Food Stamp household is excluded beginning with the highest valued vehicle. (3-17-22)~~
- ~~02. All Other Vehicles Are Subject To Federal Regulations. All other vehicles in the household will have their values counted as provided in 7 CFR 273. (3-17-22)~~

335. -- 350. (RESERVED)

**351. EXCLUDED RESOURCES.**

Some resources do not count against the limit because they are excluded. Resources excluded by federal law are also excluded for Food Stamps. Exclusions from resources are ~~listed in~~ under Sections 352 through 382 of these rules.  
(3-17-22)( )

**352. HOUSEHOLD GOODS EXCLUDED.**

Household goods are items of personal property normally found in the home. The items must be used for maintenance, use, and occupancy of the home. Household goods include, but are not limited to, furniture, appliances, television sets, carpets, and utensils for cooking and eating. ~~Household goods are excluded as resources.~~  
(3-17-22)( )

**353. PERSONAL EFFECTS EXCLUDED.**

Personal effects are items worn or carried by a ~~client~~ participant, or items having an intimate relation to the ~~client~~ participant. They include, but are not limited to, clothing, jewelry, personal care items, and prosthetic devices. Personal effects include items for education or recreation, such as books, musical instruments, or hobby materials. ~~Personal effects are excluded as resources.~~  
(3-17-22)( )

**354. HOME AND LOT EXCLUDED.**

The home and surrounding land and buildings not separated by property owned by others, are excluded as a resource. A public road or right of way that separates any plot from the home will not affect the exclusion. ~~The H~~home may be a house, ~~a~~ trailer, or ~~a~~ vehicle.  
(3-17-22)( )

**01. Unoccupied Home Exclusion.** A temporarily unoccupied home is excluded if the household members intend to return. The household members must be absent because of employment, training for future employment, ~~or~~ illness, or the home must be temporarily uninhabitable from casualty or natural disaster.  
(3-17-22)( )

**02. Building Lot Exclusion.** The following are excluded as a resource: ( )

**a.** A lot where a household is building a permanent home ~~is excluded as a resource.~~ ( )

**b.** A lot where a household intends to build a permanent home ~~is excluded as a resource.~~ and ( )

**c.** ~~The~~ A lot and partly completed home ~~are excluded.~~ ( )

**d.** The household can only have one (1) home and lot excluded. The household cannot own a home and lot and have a building lot exclusion for another property.  
(3-17-22)( )

**355. LIFE INSURANCE EXCLUDED AS A RESOURCE.**

The cash surrender value of life insurance policies is excluded as a resource. ( )

**356. BURIAL SPACE OR PLOT AND FUNERAL AGREEMENT EXCLUSIONS.**

Burial spaces or plots and funeral agreements are excluded from resources as listed ~~in Subsections 356.01 through 356.02~~ below.  
(3-17-22)( )

**01. Burial Space or Plot Exclusion.** ~~Exclude o~~ One (1) burial space or plot, for each household member, from resources. The value of the burial space or plot does not affect this exclusion.  
(3-17-22)( )

**02. Funeral Agreement Exclusion.** ~~Exclude u~~ Up to one thousand, five hundred dollars (\$1,500) of the equity value of one (1) bona fide funeral agreement, for each household member, from resources. ~~The equity value over one thousand, five hundred dollars (\$1,500) is counted as a resource.~~  
(3-17-22)( )

**357. PENSION PLANS OR FUNDS EXCLUDED AS A RESOURCE.**

The cash value of any funds in a plan, contract, or account, ~~described in~~ under Sections 401(a), 403(a), 403(b), 408, 408A, 457(b), and 501(c) of the Internal Revenue Code of 1986, and the value of funds in a Federal ~~t~~ I Thrift Savings

Plan ~~a~~ account ~~as provided for in~~ under 5 U.S.C. 8439 are excluded as a resource. This exclusion includes any current or future tax preferred retirement accounts ~~which are~~ approved under federal or state law. (3-17-22)( )

**358. INCOME-PRODUCING PROPERTY EXCLUDED.**

Property ~~which~~ that annually produces income consistent with its fair market value is excluded as a resource. Real property, not used as a home, is excluded as a resource if it produces income consistent with its fair market value. This exclusion includes land and buildings. Annual income is consistent with the property's fair market value when consistent with area market trends. (3-17-22)( )

**359. LIVESTOCK EXCLUDED.**

Livestock includes cows, pigs, sheep, llamas, and horses. Farm animals kept for food are excluded. ( )

**360. PROPERTY USED FOR SELF-SUPPORT EXCLUDED.**

Property essential to the employment or self-employment of a household member, such as tools of a trade or the farm land and machinery of a farmer, is excluded as a resource. Essential work-related equipment of an ineligible legal non-citizen or disqualified person is excluded as a resource. Self-support property is excluded during employment and temporary periods of unemployment. For a household member engaged in farming, property essential to self-employment continues to be excluded for one (1) year from the date the household member ends self-employment from farming. ( )

**361. PROPERTY USED WITH EXCLUDED VEHICLE.**

Portions of real or personal property are excluded as a resource if used in connection with an excluded vehicle. The vehicle must be used to produce income or be necessary for transporting a physically disabled household member. ( )

**362. SALABLE ITEM WITHOUT SIGNIFICANT RETURN EXCLUDED.**

Resources that cannot be sold for a significant return are excluded. ~~A significant return is one-half (1/2) the household resource limit. One-half (1/2) the household resource limit is one thousand dollars (\$1,000) or one thousand five hundred dollars (\$1,500), depending on household composition. The Department requires the household to give proof of the value of a resource only if it questions the resource data provided. Vehicles are not included under this rule. A single resource cannot be divided to get an exclusion under this rule. A resource meeting the conditions described in Subsections 362.01 through 362.03 is not counted. "Significant return" means any return, after estimating costs of sale or disposition, and taking into account the ownership interest of the household, is more than one thousand five hundred dollars (\$1,500).~~ (3-17-22)( )

~~**01. No Profit from Sale.** The sale, or other disposal, of the resource is not likely to produce one-half (1/2) the resource limit for the household. (3-17-22)~~

~~**02. No Interest in Resource.** The household's interest in a resource is slight. The sale of the resource is not likely to bring one-half (1/2) the household resource limit. (3-17-22)~~

~~**03. Cost of Sale Too Great.** The cost of selling the household's interest in a resource is excessive. The household is not likely to sell the resource for one-half (1/2) the resource limit. (3-17-22)~~

**363. HUD FAMILY SELF-SUFFICIENCY (FSS) ESCROW ACCOUNT.**

Escrow accounts and the interest earned on an escrow account established by HUD for families participating in the ~~Family Self Sufficiency (FSS)~~ Program ~~established by~~ under Section 544 of the National Affordable Housing Act, are excluded as a resource when determining eligibility for food stamps. The federal exclusion for the funds in this program and other similar type escrow funds are only excluded while the funds are still in the escrow account or being used for a HUD approved purpose. Participants in the FSS program may withdraw funds from the escrow account before completing the program, with permission from the public housing authority, but only for purposes related to the goal of the ~~Family Self Sufficiency~~ contract, such as completion of higher education, job training, or to meet start-up expenses involved in creation of a small business. (3-17-22)( )

**364. EDUCATIONAL ACCOUNTS EXCLUDED AS A RESOURCE.**

The cash value of any funds in a qualified tuition program ~~described in~~ under Section 529 of the Internal Revenue Code of 1986, or in a Coverdell education savings account under Section 530 of the Internal Revenue Code, are

excluded as ~~a~~ resources.

(3-17-22)( )

**365. INDIVIDUAL DEVELOPMENT ACCOUNT EXCLUDED AS A RESOURCE.**

The cash value of an Individual Development Account (IDA) ~~established in compliance with~~ under Section 56-1101(5), Idaho Code, is excluded as a resource. (3-17-22)( )

**366. -- 372. (RESERVED)**

**373. GOVERNMENT PAYMENTS EXCLUDED.**

Government payments for the restoration of a home damaged in a disaster are excluded as a resource. The household must be subject to legal sanction if the funds are not used as intended. ( )

**374. EXCLUDED INACCESSIBLE RESOURCES.**

The cash value of resources not legally available to the household is excluded as a resource. The household must provide proof resources are not available. ( )

**375. FROZEN OR SECURED ACCOUNTS EXCLUDED.**

Frozen bank accounts used as security for a loan or due to bankruptcy proceedings are excluded as resources. ( )

**376. REAL PROPERTY EXCLUDED IF ATTEMPT TO SELL.**

Real property is excluded as a resource if the household is making a good faith effort to sell it at a reasonable price. The Department will verify the property is for sale and the household has not refused a reasonable offer. ~~Document in the case record the reason for excluding the property and the household's efforts to sell.~~ (3-17-22)( )

**377. TRUST FUNDS EXCLUDED.**

Trust funds are excluded if all conditions listed below are met: ( )

**01. Trust Irrevocable or Not Changeable by Household.** The household must be unable to revoke the trust agreement or change the name of the beneficiary during the certification period. ( )

**02. Trust Unlikely to End During Certification.** The trust arrangement must be unlikely to end during the certification period. ( )

**03. Trustee Independent from Household Control.** The trustee of the fund is either a court, institution, corporation, or organization not under the direction or ownership of a household member, or a court-appointed person who has court-imposed limits placed on the use of funds. ( )

**04. Trust Not Under Control of Household-Directed Business.** The trust investments do not directly involve or help any business or corporation under the control, direction, or influence of a household member. ( )

**05. Origin and Use of Trust.** The funds held in an irrevocable trust are: ( )

**a.** Set up from the household's own funds. The trustee uses the funds only to make investments for the trust, or to pay education or medical expenses of the beneficiary; or ( )

**b.** Set up from nonhousehold funds by a nonhousehold member. ( )

**378. INSTALLMENT CONTRACTS EXCLUDED.**

An installment contract for the sale of land and buildings is excluded as a resource. The purchase price must be consistent with the property's fair market value. The contract or agreement must produce income consistent with the property's fair market value. Income is consistent with the property's fair market value when consistent with area market trends. The actual property sold under an excluded installment contract is excluded as a resource. Property held as security for the fulfillment of an excluded installment contract is excluded as a resource. ( )

**379. TREATMENT OF EXCLUDED RESOURCES.**



An excluded resource kept in a separate account is excluded for an unlimited period. If an excluded resource is combined with countable resources, the resource is not counted for six (6) months from the date the funds are combined. After six (6) months, the total combined resources are counted. ( )

**380. (RESERVED)**

**381. NONLIQUID RESOURCES WITH LIENS EXCLUDED.**

A nonliquid resource, with a lien placed against it, is excluded. The lien must result from a business loan. The lien agreement must forbid the household to sell the resource. ( )

**382. (RESERVED)**

**383. EXCLUDED RESOURCE CHANGES TO COUNTED RESOURCE.**

Resource value increases when a ~~client~~ participant replaces an excluded resource with a counted resource. (3-17-22)( )

**384. -- 385. (RESERVED)**

**386. TRANSFER OF RESOURCES.**

~~If a household transfers a resource within three (3) calendar months before the date of application for Food Stamps, determine if the transfer was made with the intent to qualify for the Food Stamp Program. Disqualify a household if the transfer was made with the intent to qualify for the Food Stamp Program. After a household is certified for Food Stamps, the transfer of a resource to remain eligible for Food Stamps will result in disqualification. Households that knowingly transfer resources for the purpose of qualifying or attempting to qualify for Food Stamps benefits are disqualified from participation in the program for up to one (1) year from the date of the discovery of the transfer.~~ (3-17-22)( )

**387. TRANSFER OF RESOURCE NOT COUNTED FOR DISQUALIFICATION.**

A transferred resource is not counted for disqualification, ~~if~~ under the conditions below: (3-17-22)( )

**01. Three Months Before Application.** The transfer of a resource was more than three (3) months before the date of Food Stamp application ~~is not counted~~. (3-17-22)( )

**02. Resources Less Than Limit.** The transfer ~~of a resource is not counted if the resource~~, when added to the other countable resources, does not exceed the resource limit. (3-17-22)( )

**03. Transfer at Fair Market Value.** The sale or trade of a resource, made at or near the fair market value, is not counted. ( )

**04. Transfer Between Household Members.** A resource transferred between members of the same household, including ineligible legal non-citizens or disqualified persons whose resources are considered available to the household, is not counted. ( )

**05. Transfer for Reasons Other Than Food Stamps.** A resource transferred for reasons other than trying to qualify for Food Stamps is not counted. ( )

**388. DISQUALIFICATION FOR TRANSFERRING RESOURCES.**

~~Disqualify a household from Food Stamps for up to one (1) year from the discovery date of the transfer. The Department will base the disqualification period on the amount the transferred resource exceeds the resource limit, when added to other countable resources. Disqualification periods are listed in Table 388. The disqualification period begins in the first month of application or recertification unless the household is already certified when the transfer is discovered. If the household is already certified, the disqualification period starts with the first allotment after timely notice to end benefits.~~

<u>Amount in Excess of the Resource Limit</u>	<u>Months of Disqualification</u>
\$0 - 249.99	1
\$250 - 999.99	3
\$1,000 - 2999.99	6
\$3,000 - 4,999.99	9
\$5,000 or more	12

(3-17-22)( )

389. -- 399. (RESERVED)

400. INCOME.

All household income is counted in the Food Stamp budget unless excluded under these rules. Income can be earned or unearned. ~~Income must be verified and documented.~~ (3-17-22)( )

401. EARNED INCOME.

Earned income includes, but is not limited to, ~~income listed in Section 401~~ the following. (3-17-22)( )

01. **Wages or Salary.** Wages and salaries of an employee, advances, tips, commissions, meals, and military pay are earned income. Garnishments from wages are earned income. ( )

02. **Self-Employment Income.** Income from self-employment, including capital gains, is earned income. Rental property is ~~a self-employment enterprise. The income is earned~~ if a household member manages the property an average of twenty (20) or more hours per week. Payment from a roomer or boarder is self-employment income. (3-17-22)( )

03. **Training Allowances.** ~~Training allowances f~~From programs such as Vocational Rehabilitation ~~are earned income.~~ (3-17-22)( )

04. **Payments Under Title I.** ~~Payments under Title I, s~~Such as VISTA and University Year for Action under P.L. 93-113 ~~are earned income.~~ (3-17-22)( )

05. **On-the-Job Training Programs.** WIOA income includes monies paid by WIOA or the employer. Income from WIOA on-the-job training programs is earned income, unless paid to a household member under age nineteen (19). The household member under age nineteen (19) must be under the control of another household member. (3-17-22)( )

06. **Basic Allowance for Housing (BAH).** ~~BAH is a~~An Armed Services housing allowance. ~~BAH is counted as earned income.~~ (3-17-22)( )

402. UNEARNED INCOME.

Unearned income includes, but is not limited to ~~income listed below~~ the following: (3-17-22)( )

01. **Public Assistance (PA).** Payments from SSI, TAFI, AABD, GA, or other Public ~~Assistance~~ programs ~~are unearned income.~~ (3-17-22)( )

02. **Retirement Income.** Payments from annuities, pensions, and retirement ~~are unearned income. Old~~

- ~~age, survivors, or Social Security benefits are unearned income. (3-17-22)( )~~
03. ~~Strike Benefits. Strike benefits are unearned income. (3-17-22)( )~~
04. ~~Veteran's Benefits. Veteran's benefits are unearned income. (3-17-22)( )~~
05. ~~Disability Income. Disability benefits are unearned income. (3-17-22)( )~~
06. ~~Workers' Compensation. Workers' Compensation is unearned income. (3-17-22)( )~~
07. ~~Unemployment Insurance. Unemployment Insurance is unearned income. (3-17-22)( )~~
08. ~~Contributions. Contributions are unearned income. (3-17-22)( )~~
09. ~~Rental Property Income. Rental property income, m~~ Minus the cost of doing business, is unearned  
~~income if a household member is not managing the property at least twenty (20) hours per week. (3-17-22)( )~~
10. ~~Support Payments. Support payments, i~~ ncuding ~~es child support payments, are unearned income.~~  
~~(3-17-22)( )~~
11. ~~Alimony. Alimony payments are unearned income. (3-17-22)( )~~
12. ~~Educational Benefits Unless Excluded. Educational scholarships, grants, fellowships, deferred~~  
~~payment loans, and veteran's educational benefits are excluded unearned income. (3-17-22)( )~~
13. ~~Government Sponsored Program Payments~~ Regular Payments from a Government Source.  
~~Payments from government sponsored programs are unearned income or allowances a household receives that are~~  
~~funded from a government source. (3-17-22)( )~~
14. ~~Dividends, Interest, and Royalties. Dividends, interest, and royalties are unearned income.~~  
~~Interest income is excluded unearned income. (3-17-22)( )~~
15. ~~Contract Income~~ From the Sale of Property. ~~Contract income from the sale of property is~~  
~~counted as unearned income. (3-17-22)( )~~
16. ~~Funds From Trusts. Monies withdrawn from trusts exempt as a resource are unearned income.~~  
~~Dividends paid or dividends that could be paid from trusts exempt as a resource are unearned income.~~  
~~(3-17-22)( )~~
17. ~~Recurring Lump Sum Payments. Recurring lump sum payments are unearned income.~~  
~~(3-17-22)( )~~
18. Cash Prizes, Gifts, and Lottery Winnings. ~~Cash prizes, gifts and lottery winnings are unearned~~  
~~income. (3-17-22)( )~~
19. ~~Diverted Support or Alimony. Child support or alimony payments, diverted by the provider to a~~  
~~third party, to pay a household expense are unearned income. (3-17-22)( )~~
20. ~~Agent Orange Payments. Payments made under the Agent Orange Act of 1991 and disbursed by~~  
~~the U.S. Treasury are unearned income. (3-17-22)( )~~
21. ~~Garnishments. Garnishments from unearned income are unearned income. (3-17-22)( )~~
22. ~~Tribal Gaming Income. Tribal gaming income is unearned income.~~ The participant can choose to  
count the income in the month received, or prorate the income over ~~a twelve (12) month~~ the period it is intended to  
cover. ~~(3-17-22)( )~~

23. **Other Monetary Benefits** ~~Not Otherwise Counted or Excluded.~~ ~~Any monetary benefit, not otherwise counted or excluded, is unearned income.~~ (3-17-22)( )

403. -- 404. (RESERVED)

405. **EXCLUDED INCOME.**

Income excluded when computing Food Stamp eligibility is listed below: ( )

01. **Money Withheld.** Money withheld voluntarily or involuntarily, from an assistance payment, earned income, or other income source, to repay an overpayment from that income source, ~~is excluded. If an intentional noncompliance penalty results in a decrease of benefits under a means tested program such as SSI or GA, count that portion of the benefit decrease attributed to the repayment as income.~~ (3-17-22)( )

02. **Child Support Payments.** Child support payments received by TAFI recipients ~~which must be given to CSS are excluded as income~~ that are withheld by the state. (3-17-22)( )

03. **Earnings of ~~Child Household Member~~ Under Age Eighteen Attending School.** ~~Earned income of a household member under age eighteen (18) is excluded.~~ The member must be under parental control of another household member and attending elementary or secondary school. ~~For the purposes of this provision~~ In this rule, an elementary or secondary student is someone who attends elementary or secondary school, or who attends GED or home-school classes that are recognized, operated, or supervised by the school district. This exclusion applies during semester and summer vacations if enrollment will resume after the break. If the earnings of the child and other household members cannot be differentiated, the Department will prorate equally among the working members and exclude the child's share. (3-17-22)( )

04. ~~Retirement Benefits Paid to Former Spouse or Third Party~~ **Educational Income.** ~~Social Security retirement benefits based on the household member's former employment, but paid directly to an ex-spouse, are excluded as the household member's income. Military retirement pay diverted by court order to a household member's former spouse is excluded as the household member's income. Any retirement paid directly to a third party from a household member's income by a court order is excluded as the household member's income. Includes grants, scholarships, fellowships, work study, educational loans on which payment is deferred, and veterans' educational benefits. To be excluded, education benefits must meet requirements under 7 CFR 273.9(c)(3).~~ (3-17-22)( )

05. **Infrequent or Irregular Income.** ~~Income received occasionally is excluded as income if it does not exceed thirty dollars (\$30) total in a three (3) month period.~~ (3-17-22)( )

06. **Cash Donations.** ~~Cash donations b~~Based on need and received from one (1) or more private nonprofit charitable organizations ~~are excluded as income.~~ The donations must not exceed three hundred dollars (\$300) in a calendar quarter of an federal fiscal year (FFY). (3-17-22)( )

07. **Income in Kind.** Any gain or benefit, such as meals, garden produce, clothing, or shelter, not paid in money, ~~is excluded as income.~~ (3-17-22)( )

08. **Vendor Payments.** ~~A vendor payment is a money p~~Payment made on behalf of a household by a person or organization outside of the household directly to either the household's creditors or to a person or organization providing a service to the household. (3-17-22)( )

09. **Third Party Payments.** ~~If a person or organization makes a p~~Payment to by a third party on behalf of a household using funds that are not owed to the household, ~~the payment will be excluded from income.~~ (3-17-22)( )

10. **Loans.** ~~Loans are m~~Money received ~~which that~~ is to be repaid. ~~Loans are excluded as income.~~ (3-17-22)( )

11. **Money for Third Party Care.** Money received and used for the care and maintenance of a third party who is not in the household. If a single payment is for both household members and nonhousehold members, the identifiable portion of the payment for nonhousehold members is excluded. If a single payment is for both

household members and nonhousehold members, ~~the Department will~~ exclude the lesser of: (3-17-22)( )

- a. The prorated share of the nonhousehold members if the portion cannot be identified. ( )
- b. The amount ~~actually~~ used for the care and maintenance of the nonhousehold members. (3-17-22)( )

12. **Reimbursements.** ~~Reimbursements for~~ past or future expenses not exceeding actual costs. Payments must not represent a gain or benefit. ~~Payments must~~ be used for the purpose intended, and ~~be~~ for other than normal living expenses. Excluded reimbursements are not limited to: (3-17-22)( )

- a. Travel, per diem, and uniforms for job or training. ( )
- b. Out-of-pocket expenses of volunteer workers. ( )
- c. Medical and dependent care expenses. ( )
- d. Pay for services provided by Title XX of the Social Security Act. ( )
- e. Repayment of loans made by the household from their personal property limit. The repayment must not exceed the amount of the loan. ( )
- f. Work-related and dependent care expenses paid by the JSAP program. ( )
- g. Transitional child care payments. ( )
- h. Child care payments under the Child Care and Dependent Block Grant Act of 1990. ( )

13. **Federal Earned Income Tax Credit (EITC).** ~~Federal EITC payments are excluded as income.~~ (3-17-22)( )

14. **Work Study.** Work Study income received while attending post-secondary school ~~is excluded as income.~~ (3-17-22)( )

15. **HUD ~~Family Self Sufficiency (FSS)~~ Escrow Account.** The federal exclusion for these funds ~~are~~ ~~is~~ only excluded while the funds are in the escrow account or being used for a HUD-approved purpose. See Section 363 of these rules for further clarification. (3-17-22)( )

16. **Temporary Census Earnings.** Wages earned for temporary employment related to U-S- Census activities ~~are excluded as income~~ during the regularly scheduled ten (10) year U-S- Census. (3-17-22)( )

17. **Income Excluded by Federal Law.** ~~If income is excluded by federal law, it is excluded for Food Stamps.~~ (3-17-22)( )

406. (RESERVED)

407. **INCOME AND ELIGIBILITY VERIFICATION SYSTEM (IEVS).**

Income must be verified with the IEVS system for all households applying for or getting Food Stamps. ~~Income must be verified and~~ for disqualified members with income counted toward the household Food Stamp benefits. (3-17-22)( )

408. (RESERVED)

409. **USE OF IEVS INFORMATION FOR APPLICANT HOUSEHOLDS.**

IEVS data must be used to compute eligibility and benefits if IEVS data is received before the application is processed. IEVS data on applicant households must be used as soon as possible, even if the applicant household was approved before the IEVS data was received. Action on applications must not be delayed pending receipt of IEVS

data. If IEVS data requiring further proof is received before application approval the proof must be obtained and resolved before approving the application. If an applicant household cannot provide an SSN at application, IEVS data must be used as soon as possible after the SSN is known. IEVS data must be used for all household members, eligible, excluded or disqualified. ( )

**410. (RESERVED)**

**411. VERIFIED UPON RECEIPT IEVS DATA.**

The IEVS data listed below is considered verified upon receipt, unless it is questionable: ( )

**01. Benefit Data Exchange (BENDEX).** BENDEX Social Security retirement and disability income data. ( )

**02. State Data Exchange (SDX).** Benefit and eligibility data from SSA under Titles II and XVI of the Social Security Act accessed through the ~~State Data Exchange (SDX).~~ (3-17-22)( )

**03. TAFI.** ~~Temporary Assistance for Families in Idaho.~~ (3-17-22)( )

**04. AABD.** ~~Aid to the Aged, Blind, or Disabled.~~ (3-17-22)( )

**05. Medicaid.** The Federally aided program for medical care (Title XIX, Social Security Act). ( )

**412. UNVERIFIED IEVS DATA.**

The IEVS data listed below is considered unverified: ( )

**01. IRS Reported Unearned Income.** ~~Unearned income d~~Data from IRS, including any unreported assets producing income. (3-17-22)( )

**02. Wages File.** ~~Wage file data. Wage d~~Data from Department of Commerce and Labor or its counterpart in another state. Wage data from Beneficiary Earning Exchange Record (BEER). (3-17-22)( )

**03. Self-Employment Earnings.** ~~Self-employment earnings d~~Data from BEER. (3-17-22)( )

**04. Questionable Income Information the Department Deems Questionable.** ~~Income information the Department feels is doubtful.~~ (3-17-22)( )

**413. -- ~~414~~27. (RESERVED)**

**~~415. EDUCATIONAL INCOME.~~**

~~Educational income includes deferred repayment educational loans, grants, scholarships, fellowships, and veterans' educational benefits. The school attended must be a recognized institution of post secondary education, a school for the handicapped, a vocational education program, or a program providing completion of a secondary school diploma, or equivalent. Educational income is excluded.~~ (3-17-22)

**~~416. — 426. (RESERVED)~~**

**~~427. AVERAGING SELF-EMPLOYMENT INCOME.~~**

**~~01. Annual Self-Employment Income.~~** When self employment income is considered annual support by the household, the Department averages the self-employment income over a twelve month (12) period, even if: (3-17-22)

**~~a:~~** ~~The income is received over a shorter period of time than twelve (12) months; and~~ (3-17-22)

**~~b:~~** ~~The household receives income from other sources in addition to self employment.~~ (3-17-22)

~~02. Seasonal Self-Employment Income.~~ A seasonally self-employed individual receives income from self-employment during part of the year. When self-employment income is considered seasonal, the Department averages self-employment income for only the part of the year the income is intended to cover. (3-17-22)

**428. CALCULATION OF SELF-EMPLOYMENT INCOME.**

The Department calculates self-employment income by adding monthly income to capital gains and subtracting a deduction for expenses as determined in Subsection 428.03 of this rule. Self-employment is generally considered annual or seasonal. The Department will add all gross self-employment income, either actual or anticipated, and capital gains and exclude the costs of producing the self-employment income and divide the remaining amount of self-employment income by the number of months over which the income will be averaged. This amount is the monthly self-employment income. (3-17-22)(\_\_\_\_)

~~01. How Monthly Income Is Determined~~ Self-Employment Expense Deduction. If no income fluctuations are expected, the average monthly income amount is projected for the certification period. If past income does not reflect expected future income, a proportionate adjustment is made to the expected monthly income. The Department will use a standard fifty percent (50%) self-employment deduction unless the applicant claims the actual allowable expenses exceed the standard deduction and provides proof of the expenses. (3-17-22)(\_\_\_\_)

~~02. Capital Gains Income~~ Allowable Costs of Producing Self-Employment Income. Capital gains include profit from the sale or transfer of capital assets used in self-employment. The Department calculates capital gains using the federal income tax method. If the household expects to receive any capital gains income from self-employment assets during the certification period, this amount is added to the monthly income, as determined in Subsection 428.01 of this rule, to determine the gross monthly income. Costs of labor, stock, raw material, seed and fertilizer, payments on the principal of the purchase price of income-producing real estate and capital assets, equipment, machinery, and other durable goods, interest paid to purchase income-producing property, insurance premium, and taxes paid on income-producing property. (3-17-22)(\_\_\_\_)

~~03. Self-Employment Expense Deduction~~ Costs Not Allowable. The Department uses the standard self-employment deduction in Subsection 428.03.a. of this rule, unless the applicant claims that his actual allowable expenses exceed the standard deduction and provides proof of the expenses as described in Subsection 428.03.b. of this rule. Net losses from previous periods, federal, state, and local income taxes, money set aside for retirement, work-related personal expenses (such as transportation to and from work), depreciation, amount that exceeds the payment a household receives from a boarder for lodging and meals, net losses from previous periods, and federal, state, and local income taxes. (3-17-22)(\_\_\_\_)

~~a.~~ The self-employment standard deduction is determined by subtracting fifty percent (50%) of the gross monthly self-employment income as determined in Subsections 428.01 and 428.02 of this rule; or (3-17-22)

~~b.~~ The self-employment actual expense deduction is determined by subtracting the actual allowable expenses from the gross monthly self-employment income. The following items are not allowable expenses and may not be subtracted from gross monthly self-employment income. (3-17-22)

- ~~i.~~ Net losses from previous tax years; (3-17-22)
- ~~ii.~~ Federal, state, and local income taxes; (3-17-22)
- ~~iii.~~ Money set aside for retirement; (3-17-22)
- ~~iv.~~ Work-related personal expenses such as transportation to and from work; and (3-17-22)
- ~~v.~~ Depreciation. (3-17-22)

**429. SELF-EMPLOYED FARMER.**

To be considered a self-employed farmer, a person must receive, or expect to receive, an annual gross income of one thousand dollars (\$1,000) or more earned from farming activities. If a farmer's cost of producing self-employment income results in a loss, the Department subtracts the loss from other countable income in the household ~~in accordance with~~ under 7 CFR 273.11(a)(2)(ii)(A) and (B). (3-17-22)(\_\_\_\_)

430. -- 500. (RESERVED)

501. INITIAL CHANGES IN FOOD STAMP CASE.

~~The Department will~~ Act on changes in household circumstances found during the application or the initial interview. (3-17-22)( )

01. **Food Stamp Issuance Changes.** The Department will make changes to the household's Food Stamp issuance when it is required to act on a change. ( )

02. **Change Before Certification.** If a household reports a change in household circumstances before certification, ~~the Department will~~ include the reported information in determining Food Stamp eligibility and amount. (3-17-22)( )

03. **Change After Certification.** If a household reports a change after the initial Food Stamp benefit has been paid, the Department must act on the change as required by policy for acting on changes within a certification period. Notice of the change must be given to the Food Stamp household. ( )

502. EARNED INCOME WHEN A HOUSEHOLD MEMBER TURNS AGE EIGHTEEN.

When a child attending elementary or secondary school turns age eighteen (18), ~~the Department will~~ not count earned income received or expected by that person until the next six-month or twelve-month contact, or recertification. (3-17-22)( )

503. -- 507. (RESERVED)

508. PROJECTING MONTHLY INCOME.

Income is projected for each month. Past income may be used to project future income. Changes expected during the certification period must be considered. Criteria for projecting monthly income is listed below: ( )

01. **Income Already Received.** ~~The Department will~~ Count income already received by the household during the month. If the actual amount of income from any pay period is known, use the actual pay period amounts to determine the total month's income. ~~The Department will~~ Convert the actual income to a monthly amount if a full month's income has been received or is expected to be received. ~~If no changes are expected, use the known actual pay period amounts for the past thirty (30) days to project future income.~~ (3-17-22)( )

02. **Anticipated Income.** ~~The Department will~~ Count income ~~that~~ the household and the Department ~~believe anticipate~~ the household will get during the remainder of the certification period. If the exact income amount is uncertain or unknown, that portion must not be counted. If the date of receipt of income cannot be anticipated for the month of the eligibility determination, that portion must not be counted. If the income has not changed and no changes are anticipated, ~~the Department will~~ use the income received in the past thirty (30) days as one (1) indicator of anticipated income. If changes in income have occurred or are anticipated, past income cannot be used as an indicator of anticipated income. If income changes and income received in the past thirty (30) days ~~does~~ not reflect anticipated income, the Department can use the household income received over a longer period to anticipate income. If income changes seasonally, the Department can use the household income from the last season, comparable to the certification period, to anticipate income. (3-17-22)( )

509. TYPES OF INCOME TO BE AVERAGED.

Types of income to be averaged are listed below. Income for a destitute migrant or seasonal farm worker household is not averaged. ( )

01. **Self-Employment Income.** ~~Average self-employment income.~~ (3-17-22)( )

02. **Contract Income.** ~~Average contract~~ Income over the period of the contract, if not received on an hourly or piecework basis. Households with averaged contract income include school employees, share croppers, and farmers. These households do not include migrants or seasonal farm workers. (3-17-22)( )

03. **Income Received Less Often Than Monthly.** When receipt of income is less often than monthly,



the anticipated income can be averaged over the period intended to cover to determine the average monthly income. ( )

04. **Child Support Income.** ~~Child support income can~~ can be averaged to make a valid projection for ongoing income. (3-17-22)( )

510. -- 511. (RESERVED)

512. SPECIAL CASES FOR COUNTING INCOME.

Special cases for counting income are listed below: ( )

01. **Wages Held at the Request of Employee.** ~~Wages held at the request of the employee are~~ income in the month the wages would have been paid by the employer. (3-17-22)( )

02. **Garnishments Held by Employer.** ~~Garnishments withheld by an employer are~~ income in the month the wages would have been paid. (3-17-22)( )

03. **Wages Held by Employer, Other Than Garnishment and Employee Request.** ~~Wages held by the employer, even if in violation of law, are not counted as income.~~ (3-17-22)( )

04. **Advances on Wages.** ~~Advances on wages will~~ count as income if the household reasonably expects the advance to be paid. (3-17-22)( )

05. **Varying Payment Cycles.** Households getting unearned or earned income on a recurring monthly or semi-monthly basis do not have varying income merely because mailing or payment cycles cause additional payments to be received in a month. The income is counted for the month it is intended. ( )

06. **Nonrecurring Lump Sum Payments and Capital Gains.** Nonrecurring lump sum payments must not be counted as income. ~~Nonrecurring lump sum payments, but~~ are counted as a resource starting in the month received. Nonrecurring lump sum payments include capital gains from the sale or transfer of securities, real estate, or other real property held as an investment for a set period of time. The capital gains are income only if the assets were used in self-employment. (3-17-22)( )

~~07. **PA Entitlement.** If a household intentionally fails to comply with a means tested program, a penalty may be imposed and benefits reduced to collect the means tested program overpayment. Means tested programs include PA. Count the full amount of means tested benefits the household is entitled to, not the reduced amount caused by the failure to comply.~~ (3-17-22)

513. -- 531. (RESERVED)

532. GROSS INCOME LIMIT.

Households exceeding the gross income limit for the household size are not eligible unless they are categorically eligible or have an elderly or disabled member. A household with an elderly or disabled household member is exempt from the gross income limit. ~~If all household members receive or are authorized to receive monthly payments through TAFI, AABD, or SSI, the household is categorically eligible. The gross income limit is raised each federal fiscal year by FNS, based on the federal cost of living (COLA) adjustment.~~ (3-17-22)( )

533. HOUSEHOLD ELIGIBILITY AND BENEFIT LEVEL.

A household's eligibility and benefit level is calculated ~~in accordance with~~ under 7 CFR 273.10, except as indicated below ~~in Subsections 533.01 through 533.07. of this rule.~~ The deductions ~~in Subsections 533.01 through 533.07 of this rule are subtracted from non-excluded income.~~ (3-17-22)( )

01. **Standard Deductions.** ~~The standard deductions are controlled~~ determined by Federal law. ~~The monthly amounts are specified in Title 7 United States Code Section 2014.~~ (3-17-22)( )

02. **Earned Income Deduction.** ~~The earned income deduction is~~ twenty percent (20%) of gross earned income. (3-17-22)( )

03. **Homeless Shelter Deduction.** ~~The homeless shelter deduction is~~ established by FNS. (3-17-22)( )

04. **Excess Medical Deduction.** Excess medical expense is nonreimbursed medical expense of more than thirty-five dollars (\$35) per household per month. The household member must be either age sixty (60) or older or disabled to get this expense deduction. Special diets are not deductible. For allowable medical expenses, see Section 535 of these rules. ( )

05. **Dependent Care Expense Deduction.** ~~The dependent care expense deduction is~~ for monthly dependent care expenses. The dependent care may be needed for children or adults. (3-17-22)( )

06. **Child Support Expense Deduction.** ~~The child support expense deduction is~~ the legally obligated child support and arrearage the household pays, or expects to pay, to or for a non-household member. (3-17-22)( )

07. **Excess Shelter Expense Deduction.** Excess shelter expense is the monthly shelter cost over fifty percent (50%) of the household's income after all other deductions. ~~The excess shelter expense, and~~ is not deducted if the household has received the homeless shelter deduction. For allowable shelter expenses, see Section 542 of these rules. (3-17-22)( )

**534. AVERAGING INFREQUENT, FLUCTUATING, OR ONE-TIME ONLY EXPENSES.**

Infrequent, fluctuating, or one-time only expenses for medical, child support, shelter, or child care ~~are~~ may be averaged. (3-17-22)( )

**535. MEDICAL EXPENSES.**

Elderly or disabled household members that incur medical expenses over thirty-five dollars (\$35) per month are allowed a Standard Medical Expense (SME) deduction. Eligible households must verify monthly medical expenses of more than thirty-five dollars (\$35) at initial application. Households with medical expenses that exceed the monthly ~~Standard Medical Expense~~ may either verify the minimum amount to receive the SME or request and verify excess costs to receive an actual expense deduction at application and recertification. The household must provide proof of the incurred or anticipated cost before a deduction is allowed. (3-17-22)( )

**536. DEPENDENT CARE EXPENSES.**

The care of a dependent must be necessary to maintain employment, conduct job search, or attend school or training. The dependent care expenses must be deducted from income. ( )

**537. DEPENDENT CARE RESTRICTIONS.**

~~Dependent care restrictions are listed below.~~ ~~The following types of dependent care cannot be deducted:~~ (3-17-22)( )

01. **Care by Household Member.** ~~Dependent care cannot be deducted if~~ if the care is provided by another household member. (3-17-22)( )

02. **In-Kind Payment.** ~~Dependent care cannot be deducted if the payment is in kind, s~~ Such as food or exchanges for shelter. (3-17-22)( )

03. **Vendor Payment.** ~~Dependent care cannot be deducted if paid by vendor payment.~~ (3-17-22)( )

04. **Spouse Can Give Care.** ~~Dependent care cannot be deducted if~~ if the spouse in the home is physically capable of the dependent care and is not working, seeking work, or registered for work. (3-17-22)( )

05. ~~Paid or Reimbursed~~ **Dependent Care.** ~~Dependent care cannot be deducted if~~ if paid or reimbursed under a federal child care program. (3-17-22)( )

**538. CHILD SUPPORT EXPENSES.**

Child support expense may be deducted for a household paying or expecting to pay legally obligated child support to or for a person living outside the household. The child support expense deducted must reflect the child support the

household pays or expects to pay during the certification period, rather than the obligated amount. ( )

539. -- 541. (RESERVED)

542. COSTS ALLOWED FOR SHELTER DEDUCTION.

Shelter costs are current charges for the shelter occupied by the household. ~~Shelter costs and~~ include costs for the home temporarily not occupied because of employment or training away from home or illness. (3-17-22)( )

543. UTILITY ALLOWANCES.

The shelter deduction is computed using one (1) of four (4) utility allowances: ~~Standard Utility Allowance (SUA), Limited Utility Allowance (LUA), the Minimum Utility Allowance (MUA), or the Telephone Utility Allowance (TUA).~~ Utility allowances are not prorated. (3-17-22)( )

01. Standard Utility Allowance (SUA). ( )

a. The household must have a primary heating or cooling cost to qualify for ~~the~~ SUA. The heating or cooling costs must be separate from rent or mortgage payments. (3-17-22)( )

b. ~~Occupied and unoccupied homes are in~~ Households ~~with both an occupied home and an unoccupied home, that~~ are limited to one (1) SUA. (3-17-22)( )

02. Limited Utility Allowance (LUA). The household must be billed for more than one (1) utility that is not for heating or cooling. ( )

03. Minimum Utility Allowance (MUA). The household must be billed for one (1) utility that is not for heating, cooling, or telephone service. ( )

04. Telephone Utility Allowance (TUA). The household must be billed for telephone service and have no other verified utility expenses. ( )

544. -- 546. (RESERVED)

547. COSTS NOT ALLOWED FOR THE SHELTER DEDUCTION.

The costs listed below are not allowed in computing the shelter deduction. ( )

01. ~~Fees for a One-Time~~ Utility Deposit. ~~Fees for a one (1) time utility deposit.~~ (3-17-22)( )

02. ~~Damage or Advance Rental~~ Deposits on Rentals. ~~Damage or advance deposits on rentals.~~ (3-17-22)( )

03. ~~Payments Made to Pay~~ Past Due Rent. ~~Payments made to pay past due rent.~~ (3-17-22)( )

04. ~~Cost to Cut the Household's Own~~ Wood ~~Cutting for Heating.~~ ~~The cost to cut the household's own wood for heating.~~ (3-17-22)( )

05. Furniture Rental ~~Fees.~~ ~~Rental furniture fees.~~ (3-17-22)( )

06. ~~Personal~~ Insurance ~~on Furniture or Personal Belongings.~~ ~~Insurance on furniture or personal belongings.~~ (3-17-22)( )

07. Vehicle Not Used as Residence. Payments or gasoline costs on vehicles used only for recreation. ( )

08. Repairs Not Paid by Household. Costs for repairing or replacing shelter paid by private or public agencies, insurance companies, or any other source. ( )

09. Shelter Not Paid by Household ~~but Paid by a Vendor or Employer.~~ ~~Shelter paid by a vendor or~~

employer. (3-17-22)( )

10. **Utility Costs Paid by ~~Utility Payment~~ HUD or FmHA Negative Utility Payment.** ~~Utility costs paid entirely by HUD or FmHA negative utility payment.~~ (3-17-22)( )

**548. COMPUTING THE SHELTER DEDUCTION.**

The shelter deduction is computed as listed below: ( )

01. **If Household ~~with has~~ Elderly or Disabled Member.** ~~If the household has an elderly or disabled member, The Department will~~ deduct the monthly shelter cost exceeding fifty percent (50%) of the household's income after all other deductions. (3-17-22)( )

02. **If Household ~~with has~~ No Elderly or Disabled Member.** ~~If the household does not have an elderly or disabled member, The Department will~~ deduct the excess of fifty percent (50%) of the household's income, after all other deductions, up to the maximum limit ~~as specified in under~~ Title 7 USC Section 2014. (3-17-22)( )

**549. NET INCOME LIMIT TEST.**

Categorically eligible households do not have to meet the net income limit. All other households, including those with an elderly or disabled household member, must not exceed the net income limit to be eligible for Food Stamps. ( )

**550. DETERMINATION OF FOOD STAMP BENEFIT.**

The Food Stamp benefit is computed ~~in accordance with under~~ 7 CFR 273.9 and 273.10. (3-17-22)( )

**551. ROUNDING FOOD STAMP PAYMENT.**

Income and deductions are not rounded in determining gross or net income. Only the final Food Stamp amount is rounded. ( )

**552. -- 561. (RESERVED)**

**562. PRORATING INITIAL MONTH'S BENEFITS.**

Prorating is based on a thirty (30) day calendar month. Benefits are prorated from the application date to the end of the month. ( )

**563. FOOD STAMP PRORATING FORMULA.**

The prorated Food Stamp amount is determined ~~per under~~ 7 CFR 273.10(a)(1)(iii)(B). If the amount for the initial month is less than ten dollars (\$10), benefits must not be issued. (3-17-22)( )

**564. BENEFITS AFTER THE INITIAL MONTH.**

After the initial month, benefits must be issued as described below. ( )

01. **All Eligible One and Two Person Households.** ~~All eligible one (1) and two (2) person households must r~~ceive a minimum allotment equal to eight percent (8%) of the maximum one (1) person allotment. (3-17-22)( )

02. **All Eligible Three or More Person Households.** ~~When the calculation of benefits would yield a zero benefit, the Department will deny the household's application on the grounds that its net income exceeds the level at which benefits are issued.~~ (3-17-22)( )

~~a. All eligible households with three (3) or more members entitled to one dollar (\$1), must receive two dollars (\$2).~~ (3-17-22)

~~b. All eligible households with three (3) or more members entitled to three dollars (\$3), must receive four dollars (\$4).~~ (3-17-22)

~~c. All eligible households with three (3) or more members entitled to five dollars (\$5), must receive six dollars (\$6).~~ (3-17-22)

03. **Not Categorically Eligible.** All households, except categorically eligible households, must be denied if the household's net income exceeds the level at which benefits are issued. ( )

**565. ~~FOOD STAMP BENEFITS FOR CATEGORICALLY ELIGIBLE HOUSEHOLD.~~**

~~Categorically eligible households with one (1) or two (2) household members are eligible to get an allotment amount of Food Stamps that is equal to at least eight percent (8%) of the maximum monthly one (1) person allotment, regardless of net income. Categorically eligible households with three (3) or more household members are eligible for Food Stamps, but do not get Food Stamps if the net income is too high.~~ (3-17-22)

**566. -- 572. (RESERVED)**

**573. ACTING ON HOUSEHOLD COMPOSITION CHANGES.**

Changes in household composition are not required to be reported. If a household does report a change in household composition, the Department will act on the change ~~as required by~~ using options ~~allowed~~ under 7 CFR 273.12(c). (3-17-22)( )

**574. ~~ADDING PREVIOUSLY DISQUALIFIED HOUSEHOLD MEMBERS.~~(RESERVED)**

~~The resources, income, and deductions of a previously disqualified household member must be determined. Change the previously disqualified household member's participation the month following the last month in the sanction or if the person becomes exempt. The disqualification must have been due to an intentional program violation (IPV), work registration or Job Search Assistance Program (JSAP) sanction, voluntary quit or reduction of work hours, failure to comply with the SSN requirement, or ineligible legal non citizen status. The person's resources, income, and deductions that were previously prorated are counted in full the month after the disqualification ends. Prorate benefits from the date the ABAWD becomes Food Stamp eligible by reaching eighty (80) hours by working, participating in a work program, or combining work and work programs.~~ (3-17-22)

**575. HOUSEHOLD COMPOSITION CHANGES FOR STUDENT.**

Ineligible students are defined as nonhousehold members. When a student's status changes, the change is treated as a new person entering or leaving the Food Stamp household. ( )

**576. -- 587. (RESERVED)**

**588. NOTICE OF DECISION TO HOUSEHOLDS.**

The Department must send the household a written notice as soon as Food Stamps are approved or denied. The household must get the notice no later than thirty (30) days after the application date. ( )

**589. -- 600. (RESERVED)**

**601. REPORTING REQUIREMENTS AND RESPONSIBILITIES.**

Changes may be reported by phone, mail, ~~or e-mail~~ other electronic interfaces, or ~~directly in person~~ to the Department. Households must report ~~as follows~~ when: (3-17-22)( )

01. **Household's Total Gross Income Exceeds One Hundred Thirty Percent (130%) of FPG for the Household Size.** ~~When the household's total gross income exceeds one hundred thirty percent (130%) of the Federal Poverty Guideline (FPG) for the household size.~~ (3-17-22)( )

02. **There is a Decrease in the Household's ABAWD Hours to Less Than Eighty (80) Hours Per Month.** ~~When there is a decrease in the household's ABAWD hours to less than eighty (80) hours per month.~~ (3-17-22)( )

03. **There are Substantial Lottery Winnings.** ~~Defined as equal to or greater than the financial resource limit for elderly or disabled households not subject to the Broad-Based Categorical Eligibility (BBCE) resource limit.~~ ( )

**602. (RESERVED)**

**603. PERSON OUTSIDE HOUSEHOLD FAILS TO PROVIDE PROOF -- CHANGES.**

Food Stamps cannot be closed solely because a person outside the household fails to provide requested proof. The Department will attempt to get another source of proof if a person outside the household does not provide requested proof. Disqualified household members are not persons outside the household. ( )

**604. -- 610. (RESERVED)**

**611. TIME FRAMES FOR REPORTING CHANGES IN HOUSEHOLD CIRCUMSTANCES.**

~~Households must report changes in circumstances as required in Section 601 of these rules.~~ Households reporting required changes to the Department must do so by the tenth day of the month following the month in which the change occurred. If Food Stamps are over-issued because a household fails to report required changes, a claim determination must be prepared. A person can be disqualified for failure to report a change if they commit an IPV. (3-17-22)( )

~~**01. Reporting Methods.** Changes can be reported by telephone, personal contact, mail, or e-mail. Changes can be reported by a household member or authorized representative. (3-17-22)~~

~~**02. Failure to Report.** If Food Stamps are over-issued because a household fails to report required changes, a Claim Determination must be prepared. A person can be disqualified for failure to report a change if he commits an Intentional Program Violation. (3-17-22)~~

**612. (RESERVED)**

**613. CHANGES ON WHICH THE DEPARTMENT MUST ACT.**

The Department must follow the procedures for acting on reported changes ~~as described in~~ under 7 CFR 273.12. (3-17-22)( )

**614 -- 616. (RESERVED)**

**617. INCREASES IN FOOD STAMP BENEFITS.**

**01. Household Reports a Change.** If a household reports a change that results in an increase in Food Stamps and the proof cannot be obtained through interfaces or data brokers, the Department must allow the household ten (10) days to provide proof. ( )

**02. Failure to Provide Proof of Change.** If the household fails to provide proof of a change that would increase the benefit level, the Food Stamp benefit remains at the amount already established. ( )

**03. Proof Provided Within Ten Days.** If the household provides proof within ten (10) days of reporting the change, the Department will increase the Food Stamp benefits beginning the month immediately following the month in which the change was reported. For changes reported after the 20th of the month, a supplement is issued for the next month no later than the 10th of the next month. If the change is reported and verified after the final date to adjust Food Stamp benefits for the following month in the Department's automated eligibility system, the change to the Food Stamp benefits must be made by the following month, even if a supplement must be issued. ( )

**04. Proof Not Provided Within Ten Days.** If the household fails to provide proof within ten (10) days of reporting the change, but provides proof later, benefits are increased the month after the proof of the change is provided. ( )

**618. DECREASES IN FOOD STAMP BENEFITS.**

If the Department acts on a change that results in a decrease in Food Stamp benefits, the Department must give timely notice, if required. The notice must explain the reason for the action. ( )

**619 -- 620. (RESERVED)**

**621. TAFI OR AABD HOUSEHOLD REPORTING CHANGES.**

If a change in the AABD or TAFI grant results in a change in the household's Food Stamp benefits, the Department must count the new grant amount, regardless of whether the Food Stamps increase or decrease. If a change requires a reduction or ending of TAFI or AABD and Food Stamp benefits, the Department will issue a Notice of Decision for both programs. If the household makes a timely request for a fair hearing and continued benefits, Food Stamp benefits continue pending the hearing. The household must reapply if certification expires before the hearing is complete. ( )

**622. CHANGE ENDS TAFI OR AABD INCOME.**

~~A change ending a household's income from a TAFI or AABD grant during the certification period may affect Food Stamp eligibility. A household's Food Stamp benefits must not be closed just because of a TAFI or AABD closure.~~ Food Stamp benefits will be closed only if there is a change on which the Department is required to act. ~~change requires the Department to take action under Section 613 of these rules and the action would close Food Stamps. If the household appeals and TAFI or AABD is continued, continue Food Stamps at the same level. If a TAFI or AABD notice is not required or the household does not appeal, the Department must send a notice explaining that the household's benefits will end. A notice must be sent to the household when Food Stamp benefits change because of a TAFI or AABD change.~~ If TAFI or AABD ends and the household remains Food Stamp eligible, the Department must advise the household of the any applicable work registration requirements. (3-17-22)( )

**623. FAILURE TO TAKE REQUIRED ACTION.**

If the Department is unable to make a change in Food Stamp eligibility or issuance and an overissuance results, the Department will collect the overpayment. If the Department fails to act on a change that increases household benefits, the Department will restore lost benefits. (3-17-22)( )

**624. -- 628. (RESERVED)**

**629. NOTICE OF LOWERING OR ENDING BENEFITS.**

Households must be sent a Notice of Decision when Food Stamps are ended or reduced unless notice is not required under these rules. ( )

**630. ADEQUATE NOTICE.**

Adequate notice is a written statement telling the household the action the Department is taking. The notice must tell the reasons for the action. ~~The notice must and~~ advise the household of the right to a hearing. All notices must be adequate. If Food Stamps are reduced, the household must receive the notice on or before the first day of the month the action is effective. (3-17-22)( )

**631. TIMELY NOTICE.**

~~Notices must be sent within the time limits listed in these rules.~~ Timely notice must be mailed at least ten (10) days before the effective date of the action. (3-17-22)( )

**632. TIMELY NOTICE NOT REQUIRED.**

Timely notice is not required when the conditions listed below are met. Adequate notice must be given. ( )

**01. Statement of Household.** The Department gets a clear, written, signed statement from the household. Food Stamps can be ended or reduced from the facts given in the household statement. ( )

**02. Food Stamps Reduced After Closure Notice.** The household is sent a notice of closure because it did not provide requested proof. The household provides the proof before the first day of the month of closure. If the proof results in reduced Food Stamps, the reduced benefits are issued. ~~Timely notice of the reduction is not required.~~ (3-17-22)( )

**03. Food Stamps Closed or Reduced Because of Intentional Program Violation (IPV) Penalty.** The Department must impose the IPV penalty the first of the month after the month it gives written notice to the client participant. ~~Timely notice is not required.~~ (3-17-22)( )

**633. NOTICE OF CHANGES NOT REQUIRED.**

Notice to individual Food Stamp households is not required when the conditions listed in under Subsection 633.01 below in this rule are met. Mass notice must be given in some situations, ~~as listed in under~~ Subsection 633.02 ~~below~~

in this rule:

(3-17-22)( )

**01. Waiver by the Household.** A household member or authorized representative provides a written statement requesting closure. The person gives information causing reduction or an end to benefits and states, in writing, they know adverse action will be taken. The person acknowledges in writing continuation of benefits is waived if a fair hearing is requested. ( )

**02. Mass Changes.** ~~Mass changes include~~ changes: (3-17-22)( )

a. ~~Changes in~~ the income limit tables. (3-17-22)( )

b. ~~Changes in~~ the issuance tables. (3-17-22)( )

c. ~~Changes in~~ Social Security benefits. (3-17-22)( )

d. ~~Changes in~~ SSI payments. (3-17-22)( )

e. ~~Changes in~~ TAFI or AABD grants. (3-17-22)( )

f. ~~Changes caused by~~ a reduction, suspension, or cancellation of Food Stamps ordered by the Secretary of USDA. (3-17-22)( )

g. When ~~it performs mass changes,~~ the Department performs mass changes, it notifies Food Stamp households of the mass change by one (1) of the following methods: (3-17-22)( )

i. Media notices. ( )

ii. Posters in the Food Stamp offices and issuance locations. ( )

iii. A general notice mailed to households. ( )

**03. Mass Changes in TAFI or AABD.** When a mass change to TAFI or AABD causes a Food Stamp change, the Department will use the following criteria: (3-17-22)( )

a. If the Department has thirty (30) days advance notice of the TAFI or AABD mass change, Food Stamps must be adjusted the same month as the change. ( )

b. If the Department does not have advance notice, Food Stamp benefits must be changed no later than the month after the TAFI or AABD mass change. ( )

c. Ten (10) day advance notice to Food Stamp households is not required. Adequate notice must be sent to Food Stamp households. ( )

d. If a household requests a fair hearing because of an issue other than mass change, the Department will continue Food Stamps. (3-17-22)( )

**04. Notice of Death.** Notice is not required when the Department learns of the death of all household members. ( )

**05. Completion of Restored Benefits.** Notice is not required when an increased allotment, due to restored benefits, ends. The household must have been notified in writing when the increase would end. ( )

**06. Joint Public Assistance and Food Stamp Applications.** Notice is not required if the household jointly applies for TAFI or AABD and Food Stamps and gets Food Stamps pending TAFI or AABD approval. The household must be notified at certification that Food Stamps will be reduced upon TAFI or AABD approval. ( )



**07. Converting From Repayment to Benefit Reduction.** Notice is not required if a household with an IHE or IPV claim fails to repay under the repayment schedule. An allotment reduction is enforced. ( )

**08. Households Receiving Expedited Service.** Notice is not required if all the following conditions are met: ( )

- a. The applicant received expedited services. ( )
- b. Proof was postponed. ( )
- c. A regular certification period was assigned. ( )
- d. Written notice, stating future Food Stamps depend on postponed proof, was given at approval. ( )

**09. Residents of a ~~Drug or Alcohol~~ Substance Use Disorder Treatment Center or a Group Living Arrangement Center.** Notice is not required when the Department ends Food Stamps to residents of a ~~drug or alcohol~~ substance use disorder treatment center or group living arrangement center if: (3-17-22)( )

- a. The Department revokes the center's certification. ( )
- b. FNS disqualifies the center as a retailer. ( )

**634. VERBAL REQUEST FOR END OF FOOD STAMPS.**

If a household makes a verbal request for closure, the Department will end the benefits, and notify the household with a ten (10) day advance Notice of Decision. (3-17-22)( )

**635. -- 638. (RESERVED)**

**639. CONTINUATION OF BENEFITS PENDING A HEARING.**

The household retains the right to continued benefits when the household requests a fair hearing within the ten (10) day notice period. The household must request this continuation of Food Stamps. If certification has not expired, Food Stamps can continue at the former level. Benefits must be continued within five (5) working days of the household's request for a fair hearing. ( )

**640. (RESERVED)**

**641. REDUCING OR ENDING BENEFITS BEFORE HEARING DECISION.**

Benefits may be ended or reduced before the hearing decision, if ~~a condition listed below~~ any of the following is met: (3-17-22)( )

**01. Appeal of Federal Law.** The hearing official states, in writing, the sole issue being appealed is one of federal law, regulation, or policy. ( )

**02. Food Stamp Issuance Changes.** Food Stamp eligibility or benefit level changes occur before the hearing decision and a new hearing is not requested. ( )

**03. Food Stamps ~~Expire~~ Certification Period Expires. The Food Stamp certification period expires. (3-17-22)( )**

**04. Mass Change Occurs Before the Hearing Decision.** ~~A mass change occurs before the hearing decision.~~ (3-17-22)( )

**642. -- 643. (RESERVED)**

**644. EXPIRATION OF CERTIFICATION PERIOD.**

Household eligibility ends when the certification period expires. ( )

**645. RECERTIFICATION PROCESS.**

The Department must follow the recertification procedures ~~described in~~ under 7 CFR 273.14. (3-17-22)( )

**646. NOTICE OF DECISION FOR TIMELY RECERTIFICATION.**

A Notice of Decision must be sent to households that reapply for Food Stamps. To receive Food Stamps with no break in issuance, households must complete a six-month or twelve-month contact or recertification before the fifteenth day of the last month of certification or six-month or twelve-month contact period. If the household applies before the fifteenth day of the month, the Department will notify the household of eligibility or denial by the end of the current certification period. ( )

**647. -- 649. (RESERVED)**

**650. RESTORATION OF LOST BENEFITS.**

Lost benefits must be restored. The Department may find Food Stamps have been incorrectly denied, ended, or underissued to an eligible household. The Department may learn of lost benefits from case reviews, Quality Control reviews, or other sources. Benefits are restored when caused by a Department error, when a fair hearing is reversed, or an IPV disqualification is reversed. The Department will Restore benefits to eligible and previously eligible households. ~~Restore benefits and~~ to households who have moved out of state. The Department will Restore benefits for SSA joint processing errors. (3-17-22)( )

**651. TIME FRAMES FOR RESTORATION OF BENEFITS.**

Benefits must not be restored if lost more than twelve (12) months before notification or discovery. ( )

**01. Lost Benefits Reported by Household.** ~~Lost benefits a~~ Are restored when the Department learns of lost benefits reported by the household, a person outside the household, or by another agency. Twelve (12) months are counted from the month the Department is notified of the lost benefits. (3-17-22)( )

**02. Lost Benefits Discovered by Department.** ~~Lost benefits a~~ Are restored when the Department discovers lost benefits during the course of business. Twelve (12) months are counted from the month the Department discovers the benefits were lost. (3-17-22)( )

**03. Lost Benefits From Fair Hearing.** ~~Lost benefits a~~ Are restored to a household that requests a fair hearing and the decision is in the household's favor. Twelve (12) months are counted from the effective date of the adverse action causing the fair hearing. (3-17-22)( )

**652. -- 655. (RESERVED)**

**656. REPLACING FOOD DESTROYED BY A DISASTER.**

Conditions and procedures for replacing food destroyed by a disaster are listed below. The food must have been purchased with Food Stamps. ( )

**01. Food Destroyed in a Disaster.** The actual value of loss, not to exceed one (1) month's allotment, can be replaced. The food bought with Food Stamps must have been destroyed in a disaster. The disaster may involve only the household, such as a house fire, or a larger scope, such as a flood. There is no limit on the number of times food destroyed in a disaster may be replaced. ( )

**02. Replacement Time Limit for Disaster Loss.** The Department must provide either disaster Food Stamps or replacement Food Stamps, but not both, within ten (10) days of the reported loss, if: ( )

**a.** The household reports the disaster within ten (10) days of the incident. ( )

**b.** The disaster is verified by collateral contact, an organization such as the Fire Department or Red Cross, or by home visit. ( )

**657. -- 674. (RESERVED)**

**675. IPV, IHE, AND AE FOOD STAMP CLAIMS.**

An overissuance exists when the amount of Food Stamps issued exceeds the Food Stamps a household is eligible to receive. The Department must establish a claim against the household, to recover the value of Food Stamps overissued or misused. The types of Food Stamp claims are listed ~~in Subsections 675.01 through 675.03 of this rule below.~~ (3-17-22)( )

**01. Intentional Program Violation (IPV) Claim.** ~~An IPV claim is an~~ overissuance caused by an intentional, knowing, and willful program violation. (3-17-22)( )

**02. Inadvertent Household Error (IHE) Claims.** ~~An IHE is a household~~ error, without intent to cause an overissuance, which results in a Food Stamp over-issuance. Causes of IHE claims are: (3-17-22)( )

**a.** Failure to give information. A household, without intent to cause an overissuance, fails to give correct or complete information. ( )

**b.** Failure to report change that was required to be reported. A household, without intent to cause an overissuance, fails to report changes or to report at all. ( )

**c.** Failure to comply. A household, without intent to cause an overissuance, fails to comply due to language barrier, educational level, or not understanding written or verbal instructions. ( )

**d.** Pending IPV. An IHE claim occurs between the time of an IPV referral and the IPV decision. ( )

**03. Agency Error Claim (AE).** ~~An agency error~~ claim that results from an overissuance caused by a Department action, or a failure to act. (3-17-22)( )

**676. PERSONS LIABLE FOR FOOD STAMP CLAIMS.**

The persons listed ~~in Subsections 676.01 through 676.03 below~~ are responsible for paying a claim. (3-17-22)( )

**01. Adult Household Members.** Adult members of the household at the time of the overissuance or trafficking are liable. They are individually and jointly liable, whether residing in the household where the claim arose, or in any other household. ( )

**02. Sponsor of an Alien.** The sponsor of an alien household member if the sponsor is at fault for the claim. ( )

**03. Person Connected to the Household.** A person connected to the household, such as an authorized representative, who ~~actually~~ trafficks, or causes an overissuance or trafficking. (3-17-22)( )

**677. COMPUTING FOOD STAMP CLAIMS.**

The Department computes Food Stamp claims as described ~~in Subsections 677.01 and 677.02 of this rule below.~~ (3-17-22)( )

**01. Claims Not Related to Trafficking.** The Department computes claims, not related to trafficking, back to a minimum of twelve (12) months before it became aware of the overissuance. The Department does not compute these claims, ~~not related to trafficking,~~ back more than six (6) years. For an IPV claim, the Department computes back to the month the first ~~act of~~ IPV occurred. The Department continues to compute back a minimum of twelve (12) months before the first ~~act of~~ IPV. The Department does not compute IPV claims back more than six (6) years before the first ~~act of~~ IPV. (3-17-22)( )

**02. Trafficking-Related Claims.** ~~Claims arising from trafficking-related offenses a~~ re the value of the trafficked Food Stamps as determined by: (3-17-22)( )

**a.** The individual's admission. ( )

**b.** Adjudication. ( )

- c. The documentation forming the basis for the trafficking determination. ( )

678. -- 691. (RESERVED)

692. DETERMINING DELINQUENT CLAIMS.

The Department determines if a claim is delinquent by using ~~Subsections 692.01 through 692.05 of this rule~~ the following. (3-17-22)( )

01. **Claim Not Paid by Due Date.** ~~The claim is delinquent if not paid by the due date, and~~ there is not a satisfactory payment arrangement. The claim remains delinquent until paid in full, a satisfactory repayment agreement is negotiated, or allotment reduction is invoked. (3-17-22)( )

02. **Payment Arrangement Not Followed.** The claim is delinquent if a payment arrangement is established, but scheduled payment is not made by the due date. The claim remains delinquent until paid in full, allotment reduction is invoked, or the Department agrees to resume or renegotiate the repayment schedule. ( )

03. **Previous Claim.** A claim is not delinquent if another claim for the same household is being paid through an installment agreement or allotment reduction. The Department begins collection on the new claim after the first claim is settled. ( )

04. **Collection Coordinated Through Court.** A claim is not delinquent if the Department is unable to determine delinquency status because collection is coordinated through the court system. ( )

05. **Claim Awaiting Hearing Decision.** ~~A claim awaiting a hearing decision is~~ not delinquent. If later, the hearing officer affirms a claim does exist against the household, the Department notifies the household. (3-17-22)( )

693. (RESERVED)

694. COLLECTING CLAIMS.

The Department collects payment for claims using the methods listed ~~in Subsections 695.01 through 695.05 of these rules~~ below. (3-17-22)( )

01. **Allotment Reduction.** The Department reduces the Food Stamp allotment to collect the claim. ( )

a. For an IPV claim, the allotment reduction limit is the greater of twenty dollars (\$20) per month or twenty percent (20%) of the household's monthly allotment. ( )

b. For an IHE or AE claim, the allotment reduction limit is the greater of ten dollars (\$10) per month or ten percent (10%) of the household's monthly allotment. The household can agree to a higher amount. ( )

c. The Department does not reduce the initial month's Food Stamps unless the household agrees to this reduction. ( )

02. **Household Repayments the Claim from its EBT Account.** ~~The household pays the claim from its Electronic Benefit Transfer (EBT) account.~~ (3-17-22)( )

03. **Payment by Cash, Check, or Money Order.** ~~Payment by cash, check, or money order.~~ (3-17-22)( )

04. **Household Performing Public Service.** Payment by public service as ordered by a court, specifically as payment of a claim. ( )

05. **Collection by Treasury Offset Program (TOP).** The Department submits claims delinquent for

one hundred and eighty (180) days, or more, for collection through TOP. ( )

**695. TOP NOTICES.**

The Department will provide the household with a notice of intent to collect via Treasury offset. The notice must inform the household of the right to request a Department review of the intended collection action. The Department must receive the request for review within sixty (60) days of the notice of intent to collect. The notice of review determination must inform the household of the right to request that FNS review the Department's decision. The notice must include instructions for requesting a review by FNS and the address of the FNS regional office. ( )

**696. EFFECTS OF TOP ON THE FOOD STAMP HOUSEHOLD.**

When a claim is referred to TOP, any eligible federal payment owed to the household may be intercepted and applied to the claim to reduce the debt. The household may be required to pay collection or processing fees charged by the federal government to intercept the payment. ( )

**697. REMOVING A CLAIM FROM TOP.**

The Department removes a claim from TOP under the conditions listed ~~in Subsections 697.01 through 697.05 of this rule~~ below. (3-17-22)( )

**01. Instructed by FNS or Treasury.** ~~FNS or Treasury instructs the Department to remove the debt from TOP.~~ (3-17-22)( )

**02. Household Undergoing Allotment Reduction.** ~~The person is a member of a Food Stamp household undergoing allotment reduction.~~ (3-17-22)( )

**03. Claim Is Paid in Full.** ~~The claim is paid in full.~~ (3-17-22)( )

**04. Claim Is Satisfied Through a Hearing, Termination, Compromise, or Other Means.** ~~The claim is satisfied through a hearing, termination, compromise, or other means.~~ (3-17-22)( )

**05. Household Arranges to Resume Payments Resumed.** ~~The household makes arrangements to resume payments.~~ (3-17-22)( )

**698. INTENTIONAL PROGRAM VIOLATION (IPV).**

An IPV includes the actions listed ~~in Subsections 698.01 through 698.06 of this rule~~ below. The ~~client participant~~ must intentionally, knowingly, and willfully commit a program violation. (3-17-22)( )

**01. False Statement.** A person makes a false statement to the Department, either orally or in writing, to get Food Stamps. ( )

**02. Misleading Statement.** A person makes a misleading statement to the Department, either orally or in writing, to get Food Stamps. ( )

**03. Misrepresenting.** A person misrepresents facts to the Department, either orally or in writing, to get Food Stamps. ( )

**04. Concealing.** A person conceals or withholds facts to get Food Stamps. ( )

**05. Violation of Regulations.** A person commits any act violating the Food Stamp Act, federal regulations, or state Food Stamp regulations. The violation may relate to use, presentation, transfer, acquisition, receipt, or possession of Food Stamps. ( )

**06. Trafficking in Food Stamps.** ~~Trafficking in Food Stamps m~~ Means any of the following: (3-17-22)( )

**a.** The buying, selling, stealing, or otherwise effecting an exchange of food stamp benefits issued and accessed via ~~Electronic Benefit Transfer (EBT)~~ cards, card numbers, and personal identification numbers (PINs), or

by manual voucher and signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone; (3-17-22)( )

**b.** Attempting to buy, sell, steal, or otherwise affect an exchange of food stamp benefits issued and accessed via ~~Electronic Benefit Transfer (EBT)~~ cards, card numbers, and ~~personal identification numbers (PINs)~~, or by manual voucher and signatures, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone; (3-17-22)( )

**c.** The exchange of firearms, ammunition, explosives, or controlled substances, ~~as defined in under~~ Section 802 of Title 21, U.S.C., for food stamp benefits; (3-17-22)( )

**d.** Purchasing a product with food stamp benefits that has a container requiring a return deposit with the intent of obtaining cash by discarding the product and returning the container for the deposit amount, intentionally discarding the product, and intentionally returning the container for the deposit amount; ( )

**e.** Purchasing a product with food stamp benefits with the intent of obtaining cash or consideration other than eligible food by reselling the product, and subsequently intentionally reselling the product purchased with food stamp benefits in exchange for cash or consideration other than eligible food; or ( )

**f.** Intentionally purchasing products originally purchased with food stamp benefits in exchange for cash or consideration other than eligible food. ( )

**699. ESTABLISHING AN INTENTIONAL PROGRAM VIOLATION (IPV).**

The Department establishes an IPV by the actions listed ~~in Subsections 699.01 through 699.03 of this rule below.~~ (3-17-22)( )

**01. Waiver.** The ~~client~~ participant signs a waiver to a disqualification hearing. (3-17-22)( )

**02. Hearing.** An administrative disqualification hearing determines an IPV. ( )

**03. Judgement.** A court judgement determines an IPV. ( )

**700. ADMINISTRATIVE RESPONSIBILITY FOR ESTABLISHING IPV.**

The Department must investigate and refer cases for an IPV determination. If there is enough recorded evidence to establish an IPV, the Department must take the actions listed below: ( )

**01. Act to Collect.** The Department must act to collect overissuances. The Department must set up IHE overissuance claims when a suspected IPV claim is not pursued under administrative or prosecution procedures. ( )

**02. Obtain Administrative Disqualification.** The Department pursues administrative disqualification when: ( )

**a.** The case facts do not warrant civil or criminal prosecution. ( )

**b.** The case referred for prosecution was declined. ( )

**c.** The case was referred for prosecution and no action was taken in a reasonable time. ( )

**d.** The case was referred for prosecution, but the case was withdrawn by the Department. ( )

**03. Do Not Obtain Administrative Disqualification.** The Department must not pursue an administrative disqualification in cases: ( )

**a.** Being referred for prosecution. ( )

**b.** After any prosecutor action against the accused if the case issues are the same or related

circumstances. ( )

**701. PENALTIES FOR AN IPV.**

IPV persons are ineligible for Food Stamps for twelve (12) months for the first violation. ~~IPV persons are ineligible for Food Stamps,~~ for twenty-four (24) months for the second violation. ~~IPV persons are ineligible for Food Stamps,~~ and permanently for the third violation. The Department will disqualify only the person ~~(s) or persons~~ who committed the IPV. The Department will notify the person in writing of the disqualification penalty. The penalty continues without interruption until completed, regardless of the eligibility of the disqualified person. An IPV penalty can be imposed, even if no overissuance claim exists. (3-17-22)( )

**01. Administrative Disqualification Hearings.** The disqualification begins no later than the first day of the second month following the date the person gets written notice of the disqualification. ( )

**02. Waivers.** The disqualification begins the first day of the month following the date the person gets the written notice of disqualification. ( )

**03. Court Decisions.** The disqualification begins on the date imposed by the court (to start the beginning of the following month) or, if no date is specified, within forty-five (45) days of the date the disqualification was ordered, beginning the first day of the month. ( )

**702. PENALTIES FOR IPV TRAFFICKING.**

IPV persons are ineligible for Food Stamps for two (2) years for the first finding by a court the recipient purchased illegal drugs with Food Stamps. ~~IPV persons,~~ are permanently ineligible for Food Stamps for a second finding by the court the recipient purchased illegal drugs with Food Stamps. ~~IPV persons,~~ and are permanently ineligible for Food Stamps for a first finding by a court the recipient purchased firearms, ammunition, or explosives with Food Stamps. A person convicted of trafficking in Food Stamp benefits of five hundred dollars (\$500) or more is permanently disqualified from the Food Stamp program. (3-17-22)( )

**703. PENALTIES FOR IPV RECEIPT OF MULTIPLE BENEFITS.**

A person found making a fraudulent statement or representation about identity or residence to get multiple benefits is ineligible for Food Stamps for ten (10) years for the first and second offenses and permanently for the third offense. ( )

**704. -- 714. (RESERVED)**

**715. WAIVED HEARINGS.**

Persons accused of an IPV may waive their right to an administrative disqualification hearing by completing and signing a Waiver of Disqualification Hearing. ~~The steps needed to waive the hearing are listed below: If the reviewers determine a waiver is proper, each household member suspected of IPV must be mailed or given a Waiver of Disqualification Hearing.~~ (3-17-22)( )

~~**01. Review of Evidence.** The Department must be sure the evidence warrants scheduling a disqualification hearing before giving household members, suspected of an IPV, the waiver option. Household circumstances must be reviewed by the Examiner assigned the case and a program supervisor or designee. (3-17-22)~~

~~**02. Advance Notice.** If the reviewers determine a waiver is proper, each household member suspected of IPV must be mailed or given a Waiver of Disqualification Hearing. (3-17-22)~~

**716. DISQUALIFICATION AFTER WAIVED HEARING.**

Persons waiving their right to an IPV administrative disqualification hearing must have penalties imposed. ( )

**717. COURT REFERRALS.**

Procedures for court referrals are listed below: ( )

**01. Referred Cases.** The Department may refer persons to law enforcement or county prosecutor who are suspected of getting or receiving Food Stamps by committing an IPV. ~~The Department may refer, or~~ persons suspected of committing an IPV. (3-17-22)( )

**02. Impose Court Penalties.** The Department must disqualify a person found guilty of IPV by a court for the length of time specified by the court. The disqualified member's household will remain responsible for the overissuance, resulting from the disqualified member's IPV, regardless of the household's eligibility. If the court fails to specify a period, the Department will use the IPV penalty periods ~~specified in~~ under Section 701 of these rules ~~(3-17-22)~~( )

**718. DEFERRED ADJUDICATION.**

Deferred Adjudication is an out-of-court settlement between the accused IPV member and the prosecutor. Terms of the settlement are listed below: ( )

**01. Deferred Judgement Conditions.** Guilt is not decided by the court because the accused person has met the terms of a court order or an agreement with the prosecutor. ( )

**02. Agreement with Prosecutor.** If the Department has an agreement with the prosecutor, the prosecutor may defer adjudication. The prosecutor must agree to give advance written notice to the member stating the consequences of consenting to disqualification. ( )

**03. Notice to Food Stamp Member.** If the prosecutor decides deferred adjudication is fitting, the household member suspected of IPV must be mailed or presented with a Deferred Adjudication Disqualification Consent Agreement. ( )

**04. Disqualification Period.** The period of disqualification must begin within forty-five (45) days of the date the member signed the Deferred Adjudication Disqualification Consent Agreement ~~(HW-0546)~~. The period of disqualification must begin as agreed upon with the ~~P~~prosecutor. Once a disqualification penalty is imposed against a member, the period continues uninterrupted regardless of the household's eligibility. The disqualified member's household continues to be responsible for overissuance repayment resulting from the disqualified member's IPV regardless of the household's eligibility. ~~(3-17-22)~~( )

**05. Notice of Disqualification.** The Department must provide a completed Notice of Disqualification ~~(HW-0541)~~ before the disqualification to the disqualified member and remaining household members. The Department must provide a Demand Letter for Overissuance and Repayment Agreement ~~(HW-0544)~~. ~~(3-17-22)~~( )

**719. (RESERVED)**

**720. CLAIMS DISCHARGED BY BANKRUPTCY.**

The Department will act for FNS in bankruptcy proceedings against households owing claims. The Department may file proofs of claims, objections to discharge, exceptions, petitions, and any other documents, motions, or objectives FNS might have filed. ( )

**721. (RESERVED)**

**722. INTERSTATE CLAIMS COLLECTION.**

~~If a household owes a claim and moves from one State to another, the first State should start or continue collection action. The first State has the initial opportunity to collect. The receiving State should take collection action if the first State fails to act. The receiving State should contact the first State to be sure the first State does not intend to pursue collection. The State share of claims collected is kept by the State making the collection. Idaho is responsible for initiating and continuing collection action on any Food Stamp recipient claim regardless of whether the household remains in Idaho.~~ Idaho is responsible for initiating and continuing collection action on any Food Stamp recipient claim regardless of whether the household remains in Idaho. ~~(3-17-22)~~( )

**723. -- 727. (RESERVED)**

**728. FOOD STAMP REDUCTION, SUSPENSION, OR CANCELLATION.**

Food Stamps for all Food Stamp households must be reduced, suspended, or cancelled, if ordered by the USDA Secretary to comply with Section 18 of the Food Stamp Act of 1977. Reduced Food Stamps are computed using the thrifty food plan amounts and are reduced by a percentage defined by FNS. Food Stamp reduction, suspension, and cancellation rules are described below: ( )



**01. Reducing Food Stamps.** FNS will notify the Department of the effective date of reduction and of the thrifty food plan reduction percentage. The Department must: ( )

a. Act immediately to carry out the reduction. ( )

b. Guarantee one (1) and two (2) person households a minimum benefit of equal to eight percent (8%) of the maximum one (1) person allotment unless the reduction is ninety percent (90%) or more of total projected monthly benefits. ( )

**02. Restoring Lost Benefits.** Households whose Food Stamps are reduced or cancelled under this ~~section rule~~ are not entitled to restoration of benefits. Reductions or cancellations of Food Stamps may be ordered restored by the USDA Secretary. (3-17-22)( )

**03. Suspension or Cancellation.** If a suspension or cancellation is in effect, no Food Stamps are to be issued to the applicant. ( )

**04. Hearings.** Any household whose allotment was reduced, suspended, or cancelled under this ~~section rule~~ can request a fair hearing. (3-17-22)( )

729. -- 750. (RESERVED)

**751. BOARDERS.**

Rules for Food Stamp boarders are listed below: ( )

**01. Boarder Included with Food Stamp Household.** Boarders may be included in the Food Stamp household providing board. The Food Stamp household must request the boarder be included. The household must be otherwise eligible. ( )

**02. Foster Children and Foster Adults.** Foster children and foster adults are boarders. Foster care payments and guardianship payments are not income for Food Stamps if the foster child and adult does not get Food Stamps as part of the household. If the household requests the foster child and adult be included in the Food Stamp household, foster care payments and guardianship payments are counted. (3-17-22)( )

**03. Foster Adults Certified Family Home (CFH).** ~~Foster adults are boarders. Foster care payments are not income for Food Stamps if the foster adult does not get Food Stamps as part of the household. If the household requests the foster adult be included in the Food Stamp household, the foster care payments are counted. CFH residents are considered boarders and may be included in the CFH providers household.~~ (3-17-22)( )

**04. Meal Compensation.** Boarder status must be given to persons paying a reasonable monthly amount for meals. ( )

a. Payments for more than two (2) meals a day must equal or exceed the thrifty food plan for the boarder household size. ( )

b. Payments for two (2) meals or less per day must equal or exceed two-thirds (2/3) of the thrifty food plan for the boarder household size. ( )

**05. Nonboarder Status.** A person paying less than a reasonable amount for meals is a member of the household providing board. ( )

**06. Income from Boarders.** If the boarder is not a Food Stamp household member: ( )

a. The meals and lodging payment is self-employment income for the Food Stamp household. ( )

b. The boarder's income and resources are not counted for the Food Stamp household. ( )

**752. STRIKERS.**

Households with strikers are not eligible to get Food Stamps unless the household was eligible the day before the strike. ( )

**753. SPONSORED LEGAL NON-CITIZENS.**

Sponsored legal non-citizens are lawfully admitted for permanent United States residence, ~~as defined in Sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act.~~ A sponsor executes an I-864 affidavit of support on behalf of legal non-citizen, ~~as a condition of the legal non-citizen's entry or admission into the United States as a permanent resident.~~ The income and resources of the sponsor will be deemed until the legal non-citizen becomes a naturalized citizen or until ~~he has~~ they have worked forty (40) qualifying quarters of coverage under Title II of the Social Security Act, or the sponsor dies. A qualifying quarter includes a quarter worked by the legal non-citizen's parent while the legal non-citizen was under eighteen (18) and a quarter worked by the legal non-citizen's spouse during marriage if the legal non-citizen remains married to the spouse or the spouse is deceased. Any quarter after January 1, 1997, in which a legal non-citizen received any federal means-tested benefit is not counted as a qualifying quarter. (3-17-22)( )

**754. DEEMING INCOME AND RESOURCES TO SPONSORED LEGAL NON-CITIZEN.**

Income and resources of the sponsor are deemed available to the legal non-citizen. If the sponsor lives with ~~his~~ his ~~their~~ spouse, the spouse's income and resources are also deemed available to the legal non-citizen. The income and resources are deemed, even if the sponsor and spouse were married after the sponsor signed the sponsorship agreement. The Department counts income and resources deemed to the legal non-citizen toward Food Stamp eligibility and issuance level of the legal non-citizen's household. (3-17-22)( )

**01. Battered Legal Non-Citizen Whose Sponsor Signed an Affidavit of Support.** For sponsor deeming, a battered legal non-citizen includes the non-citizen and the child of the non-citizen. The non-citizen or child must be battered in the US by a spouse, parent, or member of the family in the same household. The non-citizen must not participate in, or acquiesce to, the battering of the child. ( )

**a.** A battered legal non-citizen whose sponsor signed an affidavit of support is exempt from the sponsor deeming requirement for one (1) year if the need for Food Stamps is connected to the battery and the legal non-citizen no longer lives with the batterer. ( )

**b.** The exemption from the sponsor deeming requirement can exceed more than one (1) year if the legal non-citizen demonstrates the battery has been recognized in an order of a judge or by the INS and the need for Food Stamps is connected to the battery. ( )

**02. Indigent Legal Non-Citizen Whose Sponsor Signed an Affidavit of Support.** A non-citizen is indigent if the household income does not exceed one-hundred thirty percent (130%) of the poverty income guideline (gross income limit) for the household size. ( )

**a.** For an indigent non-citizen, the Department counts the non-citizen's own income and the cash or in-kind income and resources ~~actually~~ provided by the sponsor and spouse who signed an affidavit of support. (3-17-22)( )

**b.** A legal non-citizen that satisfies the indigent exemption criteria is exempt from deeming for twelve (12) months. The exemption can be renewed for additional twelve-month periods. ( )

**c.** If a legal non-citizen is granted an indigence exemption, the Department must provide written notification to the Statistics Branch of the INS on an annual basis. Required information includes written notice of the determination, the sponsored legal non-citizen's name, and the sponsor's name. ( )

**d.** A legal non-citizen can elect to decline the indigent exemption to avoid sponsor liability and notification to the INS. ( )

**e.** If the legal non-citizen declines the indigent exemption, the household is subject to sponsored deeming. ( )

755. – 756. (RESERVED)

**757. SPONSORED LEGAL NON-CITIZEN'S RESPONSIBILITY.**

The legal non-citizen and ~~legal non-citizen's~~ their spouse are responsible for getting the sponsor to cooperate with the Department in determining Food Stamp eligibility. The legal non-citizen and ~~legal non-citizen's~~ their spouse are responsible for providing the information and proof to determine the income and resources of the sponsor and sponsor's spouse. The legal non-citizen and ~~legal non-citizen's~~ their spouse are responsible for providing information and proof to determine if the sponsor sponsors other legal non-citizens and how many. (3-17-22)( )

758. – 760. (RESERVED)

**761. COLLECTING CLAIMS AGAINST SPONSORS WHO SIGNED AN I-864 AFFIDAVIT OF SUPPORT ON OR AFTER DECEMBER 19, 1997.**

~~The Department must send a demand letter to the sponsor. The demand letter must include the amount owed, the reason for the claim, and the repayment options. The demand letter must tell the sponsor he will not have to repay, if he can show he did not give false statements or withhold information about his circumstances. Collection action may be stopped if documentation is obtained showing the sponsor cannot be located. Collection action may be stopped if the cost of collection exceeds the amount to be recovered. If the sponsor responds to the demand letter, a lump sum cash payment may be collected if the sponsor can pay the claim at one (1) time. If the sponsor cannot pay by lump sum, a monthly repayment schedule may be negotiated. Sponsor repayments must be recorded in the case file and identified as either an IHE or IPV claim. Claims may be collected against a sponsor who signed an I-864 affidavit of support on or after December 19, 1997, and is found to have provided false statements or withheld information.~~ (3-17-22)( )

**762. COLLECTING CLAIMS AGAINST SPONSORED LEGAL NON-CITIZENS.**

Claims may be collected against sponsored legal non-citizens with a sponsor who signed an I-864 affidavit of support on or after December 19, 1997. Action may be taken to collect by submitting an IHE or IPV. ( )

**763. REIMBURSEMENT FOR BENEFITS RECEIVED.**

A sponsor who signed an affidavit on or after December 19, 1997, must reimburse the Department for the amount of Food Stamps received by the sponsored legal non-citizen if false information is provided or information is withheld. At the time of application for a sponsored legal non-citizen, the legal non-citizen's sponsor must be notified that he will be required to reimburse the Department for the entire amount of Food Stamps received by the sponsored legal non-citizen. (3-17-22)( )

764. -- ~~774~~90. (RESERVED)

~~**775. FOOD STAMPS FOR HOUSEHOLDS WITH IPV MEMBERS, INELIGIBLE FUGITIVE FELON, PROBATION/PAROLE VIOLATOR, WORK REQUIREMENT SANCTIONS, OR A MEMBER CONVICTED OF A CONTROLLED SUBSTANCE RELATED FELONY.**~~

~~The Department calculates Food Stamp eligibility and benefit level for households containing members disqualified for an IPV, ineligible fugitive felon, probation/parole violator, members ineligible because of work requirement sanctions including JSAP, and Voluntary Quit, or a member ineligible because of a controlled substance related felony. The household's Food Stamps must not increase because a household member is disqualified for IPV.~~ (3-17-22)

~~776. – 790.~~ (RESERVED)

**791. RESIDENT OF AN INSTITUTION.**

A resident of an institution is not eligible for Food Stamps unless the resident meets one (1) of the requirements listed below. A person is a resident of an institution if the institution provides over fifty percent (50%) of the person's meals as a part of normal services. Residents must be otherwise Food Stamp eligible. ( )

**01. Resident Under Housing Act.** The resident is in federally subsidized housing for the elderly, under Section 202 of the Housing Act or 236 of the National Housing Act. ( )

02. ~~Narcotic Addict or Alcoholic~~ **Person with Substance Use Disorder**. The resident is a ~~narcotic addict or an alcoholic~~ **person with a substance use disorder** living and taking part in a treatment and rehabilitation program. (3-17-22)( )

03. **Blind or Disabled**. The person is a disabled or blind resident of a group living arrangement. ( )

04. **Battered Woman and Child(ren)**. The resident is a woman or a woman and her child(ren), temporarily living in a shelter for battered women and children. (3-17-22)( )

a. The woman is a separate household from other shelter residents for Food Stamps. ( )

b. The woman and her children are a separate household from other shelter residents for Food Stamps. ( )

05. **Homeless Persons**. The resident is a person living in a public or private nonprofit shelter for homeless persons. (3-17-22)( )

**792. PRERELEASE APPLICANTS FROM PUBLIC INSTITUTIONS.**

Residents of public institutions who apply for prerelease program SSI may apply for Food Stamps before their release from public institutions. The application date is the date the person is released from the institution. Eligibility is based on the best estimate of a household's circumstances for the release month and the month after. Eligibility and Food Stamp amount are based on income and resources. Food Stamps for the initial month are prorated from the date the person is released from the institution to the end of the calendar month. ( )

**793. ~~NARCOTIC ADDICT AND ALCOHOLIC~~ SUBSTANCE USE DISORDER TREATMENT CENTERS.**

01. **Center Provides Certification List**. Each month, each center must give the ~~F~~ field ~~O~~ office a list of current ~~client~~ participant residents. The list's accuracy must be certified in writing by the center manager or designee. The Department must conduct random on-site visits to assure list accuracy. If the list is not accurate, or the Department fails to act on the change, the Department may transfer the Food Stamp amount from the center's account to the household's Food Stamp account, for the months the household was not living in the center. (3-17-22)( )

02. **Center Misusing Food Stamps**. The Department must promptly notify FNS if it believes a center is misusing Food Stamps. The Department must not ~~take action~~ act before FNS takes action against the center. (3-17-22)( )

**794. TREATMENT CENTER RESPONSIBILITIES.**

Each treatment center must follow SNAP Food Stamp application standards, ~~with the exception of~~ except for: (3-17-22)( )

01. **Return Food Stamps**. ( )

a. The center must return to the Department all issue documents and Food Stamps; not given to a departing resident, ~~to the Department~~. (3-17-22)( )

b. Food Stamps must be returned to the Department if the ~~client~~ participant left before the sixteenth of the month and the center was unable to give ~~him~~ them the Food Stamps. (3-17-22)( )

c. Food Stamps must be returned to the Department if they were left over for a resident who left on or after the sixteenth of the month. ( )

02. **Give Food Stamps to Departing ~~Client~~ Participant**. (3-17-22)( )

a. The center must give the departing ~~client~~ participant the ID card and any unredeemed Food Stamps. (3-17-22)( )

b. The center must give the ~~client participant~~ a full month's Food Stamps if they have been issued, but none have been spent on behalf of the ~~client participant~~. (3-17-22)( )

c. The center must give the departing ~~client participant~~ one-half (1/2) of the monthly Food Stamps if the ~~client participant~~ leaves before the sixteenth of the month and a portion of the Food Stamps have been spent on behalf of the ~~client participant~~. (3-17-22)( )

d. If the ~~client participant~~ leaves the center on or after the sixteenth, and Food Stamps were issued and used, the center is not required to give Food Stamps to the ~~client participant~~. (3-17-22)( )

03. **Food Stamp Misuse.** The center must be disqualified if it is administratively or judicially found the center misappropriated or used Food Stamps for purchases not contributing to a certified ~~client's participant's~~ meals. (3-17-22)( )

04. **FNS Disqualifies Center.** If FNS disqualifies a center as a retailer, the Department must close residents' cases. Individual notice of adverse action is not required. ( )

#### 795. RESIDENTS OF GROUP LIVING ARRANGEMENTS.

Disabled or blind residents of public or private non-profit group living arrangements, serving no more than sixteen (16) residents, may get Food Stamps. Residents get Food Stamps under the same standards as other households. Group living arrangements rules are listed below: ( )

01. **FNS-Authorized Retailer or Department Certified.** The center must be an FNS-authorized retailer or be certified by the Department as a non-profit group living center. Center status must comply with Section 1616(e) of the Social Security Act or comparable standards of the Secretary of USDA. ( )

02. **Application Option.** Residents may apply on their own. ~~Residents may apply,~~ as a group. ~~Residents may apply, or~~ through an authorized representative employed and designated by the center. Residents may apply through an authorized representative of the resident's choice. (3-17-22)( )

03. **Residents Apply on Their Own Behalf.** A person or a group of residents making up a household can apply on their own behalf. The center must determine the resident is physically and intellectually capable of handling ~~his~~ their own affairs. If the resident is eligible, the center does not act as the authorized representative. The resident or group is responsible for reporting any changes affecting eligibility or benefit level. The resident is responsible for overissuances. (3-17-22)( )

04. **Certification.** Residents of a center applying through the center's authorized representative must be certified as a one (1) person household. Residents of a center applying on their own behalf must be certified according to household size. ( )

05. **Residents Are Exempt From Work Registration.** ~~Residents are exempt from work registration.~~ (3-17-22)( )

06. **Residents Are Entitled to Notices of Adverse Action.** ~~Residents are entitled to notices of adverse action.~~ If a group living arrangement center loses its authorization or certification, notice is not required. (3-17-22)( )

07. **Using Food Stamps.** The Food Stamps may be used by the resident, a group of residents, or by the center to purchase food for the resident. The center may accept Food Stamps as payment for meals. If residents purchase or prepare food for home consumption, the center must insure each resident's Food Stamps are used for meals intended for that resident. (3-17-22)( )

#### 796. SHELTERS FOR BATTERED WOMEN AND CHILDREN.

The Department must determine if the shelter for battered women and children is a public or private non-profit residential facility. The Department must determine if the shelter serves only battered women and their children. If the facility serves other persons, the Department must determine if a portion of the facility is set aside to serve only

battered women and children. Shelters having FNS authorization to redeem Food Stamps on a wholesale basis meet the shelter definition. Battered women and children shelter rules are listed below: ( )

**01. Food Stamp Eligibility.** Women and children who recently left a household containing a person who abused them may get Food Stamps, even if the household they left was getting Food Stamps. Shelter residents may apply for and get separate Food Stamps only once in a month. The original Food Stamp certification must have included the person who subjected them to abuse. The resident household must meet eligibility criteria for income, resources, and expenses. ( )

**02. Income, Resources, and Expenses of the Household Are Counted.** ~~Income, resources, and expenses of the household are counted.~~ Income, resources, and expenses of their former household, containing the person who subjected them to abuse, are not counted. Jointly held resources are inaccessible if the resources are jointly owned by the shelter resident and members of the abusive household. Jointly held resources are inaccessible if the shelter residents' access to the resource is dependent on the agreement of the joint owner still living in the former household. Room payments to the shelter are shelter expenses. (3-17-22)( )

**03. Food Stamps for Former Household.** The Department must take prompt action to correct the former household's eligibility and allotment. The Department must issue a ten (10) day advance notice of adverse action. ( )

797. -- 815. (RESERVED)

**816. PURCHASE OF PREPARED MEALS.**

Persons listed below may purchase prepared meals with their Food Stamps at sites authorized to accept Food Stamps. ( )

**01. Older Persons Eating at Communal Dining Facility.** Persons sixty (60) or older and their spouses, or persons who receive SSI and their spouses, can use Food Stamps to buy meals made for them at communal dining facilities authorized to accept Food Stamps. ( )

**02. Persons Unable to Prepare Meals Getting Meal Delivery Service.** A person sixty (60) years of age or over, and a spouse, can elect to use Food Stamps to purchase meals from a nonprofit meal delivery service. A housebound, physically handicapped, or otherwise disabled person, unable to adequately prepare all meals, and a spouse, can elect to use Food Stamps to purchase meals from a nonprofit meal delivery service. ( )

**03. Resident Center.** A resident of a ~~drug addiction or alcoholic~~ residential treatment center for substance use disorders can use Food Stamps at the center. The person must be enrolled in a treatment and rehabilitation program operated by a nonprofit organization or institution. (3-17-22)( )

**04. Battered Women and Children.** A resident of a shelter for battered women and children can use Food Stamps to purchase meals prepared by the shelter. ( )

**05. Homeless.** A homeless Food Stamp ~~client~~ participant can use Food Stamps to buy meals prepared by a homeless meal provider. (3-17-22)( )

817. -- 849. (RESERVED)

**850. FOOD STAMP HOUSEHOLD RIGHTS.**

The Food Stamp household has rights protected by ~~F~~ederal and ~~S~~tate laws and Department rules. The Department must inform ~~clients~~ participants of their rights during the application process and eligibility reviews. Food Stamp rights are listed below: (3-17-22)( )

**01. Application.** The right to get an application on the date requested. ( )

**02. Application Registered.** The right to have the signed application accepted right away. ( )

**03. Representative.** The right to have an authorized representative if the applicant cannot get to the

Food Stamp office. The authorized representative must have knowledge of the applicant's situation. ( )

**04. Thirty Day Processing.** The right to have the application processed and Food Stamps issued within thirty (30) days. ( )

**05. Notification.** The right to be told in writing of: ( )

**a.** The reasons for the Department's action if the application is rejected. ( )

**b.** The reasons for the Department's action if Food Stamps are reduced or stopped. ( )

**06. Fair Hearing.** The right to request a fair hearing about the Department's decision. The right to request a fair hearing if the household feels discrimination has taken place in any way. Food Stamp fair hearings must be requested within ninety (90) days from the day notice is mailed. In certain situations, Food Stamps may continue if a fair hearing is requested. ( )

**851. (RESERVED)**

**852. FOOD STAMP HOUSEHOLD RESPONSIBILITIES.**

The Food Stamp household must provide correct and complete information so the Department can make accurate eligibility and benefit decisions. The responsibilities of the Food Stamp household are listed below: ( )

**01. Provide Information.** The Food Stamp household must provide information to determine Food stamp eligibility. This includes, but is not limited to, all information about household income, work, and housing cost. ( )

**02. Quality Control.** The Food Stamp household must cooperate with Quality Control if the case is selected for review. ( )

**853. DEPARTMENT INFORMING RESPONSIBILITIES.**

The Department must inform the Food Stamp household of what is expected of the household in the eligibility determination process. ~~The Department must and~~ advise the household of the information listed below: (3-17-22)( )

**01. Households Rights and Responsibilities.** ~~The Department must inform the household of the household's rights and responsibilities.~~ (3-17-22)( )

**02. Eligibility Factors That Must be Met and Proven.** ~~The Department must inform the household of the eligibility factors that must be met.~~ (3-17-22)( )

**03. Eligibility Factor Proof.** ~~The Department must inform the household all eligibility factors must be proven.~~ (3-17-22)

**043. Consequences of for Failure to Cooperate Provide Proof of Eligibility Factors.** ~~The Department must inform the household of the consequences for failure to provide proof of eligibility factors.~~ (3-17-22)( )

**054. Alternate Methods for Getting Proof to Prove Eligibility When Household is Unable to Provide Proof.** ~~The Department must inform the household of the alternate methods to prove eligibility when the household is unable to provide proof.~~ (3-17-22)( )

**065. Department Methods for Getting Proof the Department Uses to Prove Eligibility When Household is Unable to Provide Proof.** ~~The Department must inform the household of the methods it uses to prove eligibility when the household is unable to provide proof.~~ (3-17-22)( )

**076. Social Security Numbers the Department Will Use to Get Wage, Income, and Employment Information.** ~~The Department must inform the household Social Security Numbers will be used to get wage, income~~

~~and employment information. Information is obtained from the Department of Employment (DOE), the Social Security Administration (SSA) and the Internal Revenue Service (IRS). (3-17-22)( )~~

**854. DEPARTMENT WILL DOCUMENT ELIGIBILITY DECISIONS.**

The Department will document eligibility, ineligibility, and Food Stamp issuance in the case record. The Department must record enough detail to support the Food Stamp determination. ( )

**855. -- 860. (RESERVED)**

**861. NO DISCRIMINATION IN FOOD STAMP PROGRAM.**

The Department must not allow human rights discrimination in the Food Stamp Program. The Department will administer the Food Stamp program so no applicant or recipient in Idaho is discriminated for or against due to race, color, gender, or age. The Department will administer the Food Stamp program so no applicant or recipient in Idaho is discriminated for or against, due to political or religious belief or affiliation, national origin, handicap, or disability. ( )

**862. PUBLIC NOTICE FOR NO DISCRIMINATION.**

The Department ~~must~~ will inform the public ~~via the application form that~~ the Food Stamp Program is conducted without discrimination. The Department must display the U.S.D.A. poster “...And Justice for All” in all ~~F~~field ~~O~~ffices. The application form must inform the public the Food Stamp Program is conducted without discrimination. ~~Department Food Stamp publications must inform the public the Food Stamp Program is conducted without discrimination. (3-17-22)( )~~

**863. DISCRIMINATION COMPLAINT INFORMATION. (RESERVED)**

~~Field Offices must maintain copies of notices informing the public the Food Stamp Program is conducted without discrimination. These files must be available for inspection during reviews and audits. (3-17-22)~~

**864. DISCRIMINATION COMPLAINT PROCEDURE.**

Any person can file a discrimination complaint. The person may use the Department’s complaint procedure. The person may file a complaint directly to FNS, to the Department, or both. The ~~F~~field ~~O~~ffice must explain both procedures orally or in writing. ~~The Field Office must explain the one hundred eighty (180) day filing time limit, extensions and where to submit complaints. The Department must submit a written report describing the discrimination complaint and the action taken. This report is submitted to the Department’s Civil Rights Coordinator. The Department must keep all complaints and complaint records for three (3) years. (3-17-22)( )~~

**865. DISCLOSURE OF INFORMATION.**

~~Department programs include the Food Stamp Act, Federal regulations, Federal or Federally aided means tested assistance programs and general assistance programs with a means test and formal application procedures. The Department will make available to any ~~F~~ederal, ~~S~~tate, or local law enforcement officer the address, SSN, and (if available) photograph of a Food Stamp recipient. The officer must furnish the recipient’s name and ~~notify~~ provide the Department the ~~federally required evidence the~~ person is fleeing to avoid prosecution, custody, or confinement for a felony, violating a condition of parole or probation, or has information necessary for the officer to conduct an official duty related to a felony ~~or~~ parole violation. (3-17-22)( )~~

**866. AVAILABILITY OF PUBLIC INFORMATION.**

Rules, ~~state~~ plans of operation, procedures, ~~handbooks~~, manuals, and instructions used to certify households must be available to the public. These materials must be available for public examination during regular office hours and workdays. ~~Copies of audits or investigations, conducted by USDA, are for official use only and are not for public examination. See 7 CFR 272.1(d). (3-17-22)( )~~

**867. FOOD STAMP INFORMATION REQUIREMENTS.**

Federal regulations and procedures in FNS notices and policy memos must be available for examination by the public. State plans of operation must be available for examination by the public. Examination may take place during office hours at Department headquarters. Handbooks must be available for examination upon request at each ~~F~~field ~~O~~ffice. The Department must provide information about Food Stamps through mass media, posters, fliers, pamphlets, and face-to-face contacts. Minimum requirements are listed below: (3-17-22)( )



**01. Rights and Responsibilities.** Households must be informed of Food Stamp program rights and responsibilities. ( )

**02. Bilingual Information.** All program information must be available in Spanish. ~~Spanish information must say the program is available without regard to race, color, sex, age, handicap, religious creed, national origin or political belief.~~ (3-17-22)( )

**868. -- 871. (RESERVED)**

**872. PROGRAM TRANSFER DURING CERTIFICATION PERIOD.**

~~Households changing from Food Stamps to Food Distribution Program on Indian Reservations (FDPIR) must end their participation the last day of the month they choose to change programs. one (1) program to the other program within a certification period can do so only by ending participation. The household must tell the proper agency of its intent to switch programs. Households certified in either program on the first day of the month can only get that program's benefits during that month. A household, wanting to switch from one (1) program to the other program, must have its eligibility stopped for the currently certified program. Eligibility must end as of the last day of the month it chooses to change programs. The household must file an application for the program in which it wishes to take part.~~ (3-17-22)( )

**873. -- 875. (RESERVED)**

**876. PERSONNEL REQUIREMENTS.**

~~The Department must provide the qualified employees needed to assure prompt action on applications and issuance of benefits. Department employees certifying households for Food Stamps must be hired under Idaho Personnel Commission standards. Only qualified Department employees can interview households and determine eligibility and benefit amount. Only authorized employees or contractors of the Department may have access to Food Stamp cards or other issuance documents.~~ (3-17-22)

**877. VOLUNTEERS.**

~~Volunteers, or other persons not employed by the Department, can engage in certification-related activities. Volunteers, or other persons not employed by the Department, must not conduct interviews or certify households. Volunteers and other persons can teach nutrition education and provide transportation to the Field Offices. Volunteers and other persons can help households complete the application forms. Volunteers and other persons can help get proof for information reported on the application.~~ (3-17-22)

**878. PERSONNEL AND FACILITIES OF PARTIES TO A STRIKE.**

~~Persons or organizations, who are parties to a strike or lockout, cannot be used in any activity related to certification. These persons must not certify applicant households, interview households or help get proof for the households. These persons can give proof of information provided by households, if they are in the best position to confirm a household's circumstances. Facilities of persons or organizations who are parties to a strike or lockout cannot be used in the certification process or as an interview site.~~ (3-17-22)

**879. REVIEW OF CASE FILE.**

~~The client participant or his their representative is allowed to can review his their case file under Department Rules, IDAPA 16.05.01, "Use and Disclosure of Department Records."~~ (3-17-22)( )

**880. -- 882. (RESERVED)**

**883. QUALITY CONTROL AND FOOD STAMP ELIGIBILITY REFUSAL TO COOPERATE WITH QUALITY CONTROL REVIEWS.**

~~State Quality Control (SQC) is the Department's case review system. SQC determines rates of correct Food Stamp issuances and Department and recipient caused errors. Quality control reviews open Food Stamp cases, denials and closures. The quality control review period extends from October 1st to September 30th of the next year. Households selected for quality control review by State Quality Control (SQC) and Federal Quality Control (FQC) must cooperate with both reviews. The Department is required to conduct monthly random quality control reviews of food stamp cases, denials of food stamp applications, and issuance amounts. If a household is selected and refuses to cooperate in a quality control review, it is not eligible for food stamp benefits.~~ (3-17-22)( )

~~01. Refusal to Cooperate with SQC or FQC.~~ If a household refuses to cooperate in a SQC or FQC review, it is not eligible. (3-17-22)

~~01.~~ **Advance Notice to End Food Stamps.** The Department must send the household advance notice to end Food Stamps. The notice must list the reason for the proposed action, the right to a hearing, the right to schedule a conference or to continue the ~~SQC or FQC~~ review. (3-17-22)(    )

~~b.~~ The Department will close the Food Stamp case. (3-17-22)

**02. Food Stamp Eligibility During Quality Control Review Period, After Refusal to Cooperate.** The household is not eligible for Food Stamps during the Quality Control review period until it cooperates with the ~~SQC or FQC~~ review. (3-17-22)(    )

884. -- 999. (RESERVED)

**IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE**

**16.03.06 – REFUGEE MEDICAL ASSISTANCE**

**DOCKET NO. 16-0306-2301**

**NOTICE OF RULEMAKING – PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-202 and 56-203, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Two public hearings concerning this rulemaking will be held as follows:

<b>VIRTUAL TELECONFERENCES Via WebEx</b>
<p><b>Wednesday, September 13, 2023</b> <b>9:00 a.m. - 11:00 a.m.</b></p>
<p><b>Join from the meeting link</b> <a href="https://idhw.webex.com/idhw/j.php?MTID=m5dcc0316e6fafb1eb2ed4ab85f174210">https://idhw.webex.com/idhw/j.php?MTID=m5dcc0316e6fafb1eb2ed4ab85f174210</a></p> <p><b>Join by meeting number</b> <b>Meeting number (access code): 2760 602 0742</b> <b>Meeting password: MDqjmP3cs92 (63756732 from phones and video systems)</b></p> <p><b>Join by phone</b> <b>+1-415-527-5035 United States Toll</b> <b>+1-303-498-7536 United States Toll (Denver)</b></p>
<p><b>Thursday, September 14, 2023</b> <b>12:00 p.m. - 2:00 p.m. (MT)</b></p>
<p><b>Join from the meeting link</b> <a href="https://idhw.webex.com/idhw/j.php?MTID=madb16385f7bd63c8263c4160e3a925a1">https://idhw.webex.com/idhw/j.php?MTID=madb16385f7bd63c8263c4160e3a925a1</a></p> <p><b>Join by meeting number</b> <b>Meeting number (access code): 2762 839 2540</b> <b>Meeting password: muHbrNkz333 (68427659 from phones and video systems)</b></p> <p><b>Join by phone</b> <b>+1-415-527-5035 United States Toll</b> <b>+1-303-498-7536 United States Toll (Denver)</b></p>

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below. Each meeting will conclude after 30 minutes if no participants sign in or wish to comment in the meeting.

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

In 2022, the Director of the Office of Refugee Resettlement (ORR), Administration for Children and Families, under the U.S. Department of Health and Human Services announced a change of the Refugee Medical Assistance (RMA) eligibility period for participants whose date of eligibility for ORR benefits is on or after October 1, 2021. This change was made under the authority of 45 CFR 400.211(b) and announced in the Federal Register.

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

This chapter contains no fees or charges.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because it was determined to be not feasible. This rule change is being made to reflect the recent expansion of the eligibility period for Refugee Medical Assistance made by the federal Office of Refugee Resettlement.

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

There are no incorporations by reference in this chapter of rules.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Laura Schumaker at 208-799-4335.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2023.

DATED this 25th day of August, 2023.

Trinette Middlebrook and Frank Powell  
DHW – Administrative Rules Unit  
450 W. State Street – 10th Floor  
P.O. Box 83720  
Boise, ID 83720-0036  
phone: (208) 334-5500  
fax: (208) 334-6558  
e-mail: [dhwrules@dhw.idaho.gov](mailto:dhwrules@dhw.idaho.gov)

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0306-2301**  
**(Only Those Sections With Amendments Are Shown.)**

**150. REFUGEE MEDICAL ASSISTANCE PROGRAM.**

**01. Time Limitation.** Medical assistance under the Refugee Medical Assistance Program will be ~~limited to eight (8) consecutive months beginning with the month the refugee enters the United States determined under 45 CFR 400.211(b).~~ (3-17-22)( )

**02. Eligibility.** Refugees whose countable income does not exceed one hundred fifty percent (150%) of

the Federal Poverty Guidelines are eligible for Refugee Medical Assistance. (3-17-22)

**03. Refugee Medical Assistance with “Spend Down.”** An applicant for Refugee Medical Assistance whose countable income exceeds one hundred fifty percent (150%) FPG for their family size may become eligible for Refugee Medical Assistance under certain conditions. A special provision, for refugees only, will allow those refugees whose income exceeds one hundred fifty percent (150%) FPG for their family size to subtract their medical costs from their income and thus “spend down” to the FPG limit for their family size. (3-17-22)

**04. Counting Income for Refugee Medical Assistance.** (3-17-22)

**a.** Income is counted or excluded in accordance with IDAPA 16.03.01, “Eligibility for Health Care Assistance for Families and Children.” The sole exception is that Refugee Cash Assistance is excluded from income when determining eligibility for Refugee Medical Assistance. (3-17-22)

**b.** The income of sponsors, and the in-kind services and shelter provided to refugees by their sponsors, will not be considered in determining eligibility for Refugee Medical Assistance. (3-17-22)

**IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE**

**16.05.03 – CONTESTED CASE PROCEEDINGS AND DECLARATORY RULINGS**

**DOCKET NO. 16-0503-2301 (ZBR CHAPTER REWRITE)**

**NOTICE OF RULEMAKING – PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 16-107, 56-133, 56-135, 56-202, 56-204A, 56-216, 56-1003, 56-1004, and 56-1005, Idaho Code.

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

<p><b>VIRTUAL TELECONFERENCE Via WebEx</b></p>
<p><b>Monday, September 18, 2023</b> <b>11:00 a.m. - 12:00 p.m. (MT)</b></p>
<p><b>Join from the meeting link</b> <a href="https://idhw.webex.com/idhw/j.php?MTID=m9750e261273461f461b7b4f34b66e1f5">https://idhw.webex.com/idhw/j.php?MTID=m9750e261273461f461b7b4f34b66e1f5</a></p> <p><b>Join by meeting number</b> <b>Meeting number (access code): 2764 782 7971</b> <b>Meeting password: G74NyWPJMa7 (47469975 from phones and video systems)</b></p> <p><b>Join by phone</b> <b>+1-415-527-5035 United States Toll</b> <b>+1-303-498-7536 United States Toll (Denver)</b></p>

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

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

Under [Executive Order 2020-01: Zero-Based Regulation](#), the Idaho Department of Health and Welfare is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. The rule changes are intended to perform a comprehensive review of this chapter by collaborating with the public to streamline or simplify this rule language.

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

This chapter contains no fees or charges.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the February 1, 2023, Idaho Administrative Bulletin, [Volume 23-2, pages 10 through 11](#), and March 1, 2023, Idaho Administrative Bulletin, [Volume 23-3, pages 22 through 23](#).

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

There are no incorporations by reference in this chapter of rules.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Miren Unsworth, 208-334-5506.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2023.

DATED this 4th day of August, 2023.

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  
dhwrules@dhw.idaho.gov email

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0503-2301  
(ZBR Chapter Rewrite)**

**16.05.03 – CONTESTED CASE PROCEEDINGS AND DECLARATORY RULINGS**

**000. LEGAL AUTHORITY.**

~~The Idaho Legislature has granted the Director of the Department of Health and Welfare and the Board of Health and Welfare the power and authority to conduct contested case proceedings and issue declaratory rulings, and to adopt rules governing such proceedings under Sections 16-107, 56-133, 56-135, 56-202, 56-204A, 56-216, 56-1003, 56-1004, and 56-1005, Idaho Code, authorize the Department and the Board to conduct contested case proceedings, issue declaratory rulings, and adopt rules governing such proceedings.~~ (3-17-22)( )

**001. TITLE AND SCOPE.**

~~01. Title. These rules are titled IDAPA 16.05.03, “Contested Case Proceedings and Declaratory Rulings.”~~ (3-17-22)

~~02. Scope. These rules establish standards for petitions for rulemaking and declaratory rulings, and the conduct of contested cases.~~ (3-17-22)

~~**002. ACCESS TO RECORDS OF INDIVIDUALS WITH DEVELOPMENTAL OR MENTAL DISABILITIES.**~~

~~The state Protection and Advocacy System established under 42 USC 15041, et seq., and 42 USC 10801 et seq., 29 USC 794e, et seq., and 42 USC 300d as designated by the Governor has access to records of individuals who are clients of the system maintained by any program or institution of the Department if the individual has authorized or is unable to authorize the system to have such access, or does not have a legal guardian, conservator or other legal~~

~~representative.~~

~~(3-17-22)~~

**001. -- 002. (RESERVED)**

**003. ADMINISTRATIVE APPEALS.**

~~All contested cases are governed by the provisions of this chapter. The Board of Health and Welfare and the Director of the Department of Health and Welfare find that the provisions of IDAPA 04.11.01.000, et seq., "Idaho Rules of Administrative Procedure of the Attorney General," are inapplicable for contested cases involving the programs administered by the Department, because of the specific requirements of federal and state law regarding hearing processes, and the complexity of the rules at IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." All the Department's contested cases are governed by these rules, which comply with specific federal and state law requirements for the Department's hearing processes.~~

~~(3-17-22)( )~~

**004. -- 009. (RESERVED)**

**010. DEFINITIONS AND ABBREVIATIONS.**

~~For the purposes of this chapter, the following definitions and abbreviations apply.~~

~~(3-17-22)~~

~~01. Administrative Review. An i~~Informal review by a Division Administrator or designee, to determine whether a Department decision is correct.

~~(3-17-22)( )~~

~~02. Appellant. A person or entity who files an appeal of Department action or inaction. ( )~~

~~03. Board. The Idaho Board of Health and Welfare. ( )~~

~~04. Complainant. A person or individual who has a grievance regarding Youth Empowerment Services (YES). (3-17-22)~~

~~05. Cost Report. A f~~Fiscal year report of provider costs required by the Medicare program and any supplemental schedules required by the Department.

~~(3-17-22)( )~~

~~06. Cost Settlement. Final determinations of payment, based on cost reports, to a Medicaid-enrolled provider. ( )~~

~~07. Department. The Idaho Department of Health and Welfare. ( )~~

~~08. Director. The Director of the Department of Health and Welfare or designee. (3-17-22)( )~~

~~09. Hearing Officer. The person designated to preside over a particular hearing and any related proceedings. ( )~~

~~10. IPV. Intentional program violation. ( )~~

~~11. Intervenor. Any person, other than an appellant or the Department, who requests to be admitted as a party in an appeal. ( )~~

~~12. Managed Care Entity (MCE). An entity contracted by Medicaid to administer Medicaid services, which may be a Prepaid Ambulatory Health Plan (PAHP), Prepaid Inpatient Health Plan (PIHP), or other Managed Care Organization (MCO) as defined in 42 CFR 438.2. As used in these rules, the term does not include service brokers or entities providing non-emergency medical transportation (NEMT) services. (3-17-22)( )~~

~~13. Party. An appellant, claimant, the Department, and or an intervenor, if intervention is permitted. (3-17-22)( )~~

~~14. Youth Empowerment Services (YES) Program Participant. A YES program participant, is an Idaho resident with a Serious Emotional Disturbance who: (3-17-22)~~



- ~~a. Is under the age of eighteen (18); (3-17-22)~~
- ~~b. Has a mental health condition described in the current Diagnostic and Statistical Manual of Mental Disorders (DSM) and diagnosable by a qualified professional operating within the scope of their practice as defined by Idaho state law; and (3-17-22)~~
- ~~c. Has a substantial functional impairment that is measured by and documented through the use of a standardized instrument conducted or supervised by a qualified clinician. (3-17-22)~~
- ~~d. A substance use disorder or development disorder alone does not constitute an eligible diagnosis, although one (1) or more of these conditions may coexist with an eligible mental health diagnosis. (3-17-22)~~

**011. -- 039. (RESERVED)**

**040. PETITION FOR ADOPTION OF RULES.**

Under Section 67-5230, Idaho Code, any person may file a written petition with the Department's Administrative Procedures Section requesting the promulgation, amendment, or repeal of a rule. ~~The petition must include a name, address, and phone number to which the Department may respond; list the rule in question and explain the reasons for the petition; and include the suggested language of the rule.~~ The petitioner must include: (1) their name, address, and phone number; (2) the rule in question; (3) reasons for the petition; and (4) suggested alternative wording (if applicable). The Director will initiate rulemaking proceedings or deny the petition in writing within twenty-eight (28) days. (3-17-22)(    )

**041. -- 049. (RESERVED)**

**050. PETITION FOR DECLARATORY RULING.**

Under Section 67-5232, Idaho Code, any person may file a written petition to the Director through the Department's Administrative Procedures Section for a declaratory ruling as to the applicability of any statute or rule of the Department to an actual set of facts involving that person. (3-17-22)(    )

**051. CONTENTS OF PETITION FOR DECLARATORY RULING.**

A petition for a declaratory ruling must identify: (1) that it is a request for a declaratory ruling ~~under this section of rule;~~ (2) the specific statute; or rule with respect to which the declaratory ruling is requested; (3) a complete description of the situation for which the declaratory ruling is requested; (4) and the specific ruling requested. The petition must include the date of the petition, ~~the~~ name, address, and phone number of the petitioner, and whether the petition is made on behalf of a corporation or organization. The petition must identify ~~the manner by which~~ how the statute or rule interferes with, impairs, or threatens to interfere with or impair the legal rights, duties, licenses, immunities, interests, or privileges of the petitioner. (3-17-22)(    )

**052. DISPOSITION OF PETITION FOR DECLARATORY RULING.**

The Director will issue a final declaratory ruling in writing within seventy (70) days after receipt of the petition or within such additional time as may be required. The Director may decline to issue a declaratory ruling in the following circumstances: ( )

- 01. Incomplete.** When a petition fails to meet the requirements set forth in Section 051 of these rules; ( )
- 02. Contested Case.** When the issue set forth in the petition would be more properly addressed as a contested case, such as where there is a reasonable dispute as to the relevant facts, or where witness credibility is an issue; ( )
- 03. No Legal Interest.** When the petition fails to state a sufficient or cognizable legal interest to confer standing; ( )
- 04. Others Affected.** When the issue presented would substantially affect the legal rights, license, privileges, immunities, or interests of parties other than petitioners; or ( )

05. **Beyond Authority.** When the ruling requested is beyond the authority of the Department. ( )

053. -- 099. (RESERVED)

**100. DEPARTMENT RESPONSIBILITY.**

When a decision is appealable, the Department will advise the individual or provider in writing, mailed to the most recent address the Department has on file, of the right and method to appeal and the right to be represented. (3-17-22)( )

**101. FILING OF APPEALS.**

01. **Appeals.** Unless otherwise provided in these rules: (3-17-22)( )

**a.** Appeals must be filed in writing and state the appellant's name, address, and phone number, and the remedy requested, ~~unless otherwise provided in these rules.~~ (3-17-22)( )

**b.** Appeals should be accompanied by a copy of the decision notice that is the subject of the appeal and state the reason for disagreement with the Department's action. (3-17-22)( )

02. **Time Limits for Filing Appeal.** Unless otherwise provided by federal or state statute, regulation or these rules, individuals who are aggrieved by a Department decision have twenty-eight (28) days to file an appeal from the date the decision is mailed to the most recent address the Department has on file ~~an appeal~~. An appeal is filed when it is received by the Department or postmarked within the time limits provided in the decision notice, or in these rules. (3-17-22)( )

**102. NOTICE OF HEARING.**

All parties in an appeal will be notified of a hearing at least ten (10) days in advance, or within such time period as may be mandated by law. The hearing officer may provide a shorter advance notice upon request of a party or for good cause. The notice will: (1) identify the time, place, and nature of the hearing; (2) a statement of the legal authority under which the hearing is to be held; (3) the particular sections of any statutes and rules involved; (4) the issues involved; and (5) the right to be represented. The notice must identify how and when documents for the hearing will be provided to all parties. (3-17-22)( )

**103. PREHEARING CONFERENCE.**

**01. Prehearing Conference.** ~~The hearing officer may, upon written or other sufficient request of either party, or if determined necessary by the hearing officer and with~~ notice to all interested parties, hold a prehearing conference. The purpose of the prehearing conference is to: (3-17-22)( )

**a01. Formulate or Identify, Simplify, Resolve, or Dismiss the Issues, or the Appeal;** (3-17-22)( )

**b02. Obtain Admissions or Stipulations of Fact and Documents;** (3-17-22)( )

**e03. Identify whether there is any additional information that had was not been presented to the Department with Good Cause;** (3-17-22)( )

**d04. Arrange for Exchange of Proposed Exhibits or Prepared Expert Testimony;** (3-17-22)( )

**e05. Limit the Number of Witnesses;** (3-17-22)( )

**f06. Determine the Hearing Procedure at the hearing; and** (3-17-22)( )

**g07. Determine any Other Matters that may Expedite the orderly conduct and disposition of the Proceeding.** (3-17-22)( )

~~02. Exception to Prehearing Conference.~~ The prehearing conference cannot be mandatory for any Division of Welfare or Division of Medicaid benefit programs. The following apply: (3-17-22)

~~a. Participation in the prehearing conference is optional for individuals seeking to appeal for any benefit through the Division of Welfare or Division of Medicaid; and (3-17-22)~~

~~b08. Default Orders. A In cases appealing Divisions of Welfare and Medicaid benefit decisions, prehearing conferences cannot be mandatory, and non-participation cannot result in default order may not be entered for cases in which an individual does not participate in the prehearing conference involving benefits through the Division of Welfare, or Division of Medicaid. (3-17-22)( )~~

**104. SUBPOENAS.**

At ~~the request~~ of a party's request, the hearing officer may issue subpoenas for witnesses or documents, consistent with Sections 120 and 134 of these rules. (3-17-22)( )

**105. DISPOSITION OF CASE WITHOUT A HEARING.**

Any contested case may be resolved without a hearing on the merits ~~of the appeal~~ by stipulation, settlement, motion to dismiss, summary judgment, default, or withdrawal, or for lack of jurisdiction of the appeal or action. The hearing officer may dismiss an appeal for lack of jurisdiction or mootness and must dismiss an appeal that is not filed within the time limits set forth in these rules. (3-17-22)( )

**106. DEFAULT.**

Unless otherwise provided by statute or rule, if a party fails to appear at a scheduled hearing or at any stage of a contested case, the hearing officer must enter a proposed default order against that party. The default order must be set aside if, within fourteen (14) days of the date of mailing, that party submits a written explanation for not appearing, for which the hearing officer finds substantial and reasonable good cause. (3-17-22)( )

**107. INTERVENTION.**

Persons other than the original parties to an appeal who are directly and substantially affected by the proceeding may participate if they first secure an order from the hearing officer granting leave to intervene. The granting of leave to intervene is not to be construed as a finding or determination that the intervenor is or may be a party aggrieved by any ruling, order, or decision of the Department for purposes of judicial review. (3-17-22)( )

**108. CONSOLIDATED HEARING.**

When there are multiple appeals or a group appeal involving the same change in law, rules, or policy, the hearing officer ~~will~~ may hold a consolidated hearing. (3-17-22)( )

**109. -- 119. (RESERVED)**

**120. DISCOVERY.**

Except for hearings involving Section 56-1005(5), Idaho Code, ~~prehearing discovery is limited to obtaining the names of witnesses and copies of documents the opposing party intends to offer as exhibits. the parties must provide to each other and the hearing officer all records that will be offered as exhibits, and the names of hearing witnesses. Disputes over disclosure of additional records will be resolved by T~~ the hearing officer, who may order production of this information if a party refuses to comply after receiving a written request such records deemed reasonably likely to lead to the discovery of admissible evidence. The hearing officer will issue ~~such other~~ orders as are needed for the orderly conduct of the proceeding. Nothing in ~~Section 120~~ this rule limits the authority of the Director provided in Section 56-227C, Idaho Code. (3-17-22)( )

**121. BRIEFING ~~SCHEDULE.~~**

A hearing officer may require briefs ~~to be filed by the parties, and establish~~ with a reasonable briefing schedule. (3-17-22)( )

**122. FILING OF DOCUMENTS IN AN APPEAL.**

All documents intended to be used as exhibits must be simultaneously filed with the hearing officer. ~~Such documents will be~~ and provided to every party, ~~at the time they are filed with~~ in the manner directed by the hearing officer, ~~in~~

~~person, by first class mail, or as otherwise ordered by the hearing officer and accompanied by a certificate of service. If mailed, service is by mail is complete when the document, properly addressed and stamped, is deposited in the United States or Statehouse mail. A certificate showing delivery to all parties will accompany all documents when they are filed with the hearing officer.~~ (3-17-22)( )

**123. REPRESENTATION.**

Any party in a contested case proceeding may be represented by legal counsel, at the party's own expense. An individual in an benefits appeal ~~involving benefits~~ may also be represented by a non-attorney. (3-17-22)( )

**124. RESERVED.**

**125. INTERPRETERS.**

If necessary, an interpreter will be provided by the Department. ( )

**126. -- 129. (RESERVED)**

**130. ~~OPEN~~CLOSED HEARINGS.**

All contested case hearings are ~~open~~ closed to the public, unless ordered ~~closed in open at~~ the discretion of the hearing officer ~~due to the sensitive nature of the hearing. The hearing officer can order that individuals be identified by initials or an alias if necessary to protect their privacy.~~ At the ~~discretion of the~~ hearing officer's discretion, witnesses may testify ~~by telephone~~ telephonically or ~~other electronic means~~ electronically, provided the ~~examination and responses are~~ testimony is audible to all parties. (3-17-22)( )

**131. AUTHORITY OF HEARING OFFICER.**

The hearing officer will consider only information that was available to the Department at the time ~~the of its initial~~ decision ~~was made or during Administrative Review.~~ If appellant shows ~~that~~ there is additional relevant information that was not presented to the Department with good cause, the hearing officer ~~will~~ may remand the case to the Department for consideration. No hearing officer has the jurisdiction or authority to invalidate any federal or state statute, rule, regulation, or court order. The hearing officer must defer to the Department's interpretation of statutes, rules, regulations, or policy unless the hearing officer finds the interpretation to be contrary to statute or an abuse of discretion. The hearing officer will not retain jurisdiction on any matter after it has been remanded to the Department. (3-17-22)( )

**~~132. BURDEN OF PROOF -- INDIVIDUAL BENEFIT CASES.~~**

~~The Department has the burden of proof if the action being appealed is to limit, reduce or terminate services or benefits; establish an overpayment or disqualification; revoke or limit a license; or to contest a tobacco violation under Sections 39-5705 and 39-5708, Idaho Code. In a child support matter, the Department must first establish that arrearages are sufficient for child support enforcement action. The appellant has the burden of proof on all other issues, including establishing eligibility for a program, service or license; seeking an exemption required due to criminal history or abuse registry information; or seeking to avoid license suspension, asset seizure, or other enforcement actions for failure to pay child support.~~ (3-17-22)

**132. BURDEN OF PROOF -- INDIVIDUAL BENEFIT CASES.**

**01. Burden of Proof.** The Department has the burden of proof if the action being appealed is to: ( )

**a. Limit, reduce, or terminate services or benefits;** ( )

**b. Establish an overpayment or disqualification;** ( )

**c. Revoke or limit a license;** ( )

**d. Contest a tobacco violation under Sections 39-5705 and 39-5708, Idaho Code; or** ( )

**e. Place an individual on the Child Protection Central Registry.** ( )

**02. Child Support.** In a child support matter, the Department must first establish that arrearages are

sufficient for child support enforcement action. ( )

**03. Appellant Burden of Proof.** The appellant has the burden of proof on all other issues, including to: ( )

**a.** Establish eligibility for a program, service, or license; ( )

**b.** Seek an exemption required due to criminal history information; or ( )

**c.** Seek to avoid license suspension, asset seizure, or other enforcement actions for failure to pay child support. ( )

**133. BURDEN OF PROOF -- PROVIDER CASES.**

The Department has the burden of proof if the action being appealed is to revoke or limit a license, certification, or provider agreement; or to impose a penalty. The appellant has the burden of proof on all other issues, including establishing entitlement to payment. (3-17-22)( )

**134. EVIDENCE.**

Under Section 67-5251, Idaho Code, ~~the~~ hearing is informal and ~~technical~~ the rules of evidence do not apply, except that irrelevant, immaterial, incompetent, unduly repetitious evidence, evidence excludable on constitutional or statutory grounds, or evidence protected by legal privilege is excluded. Hearsay evidence will be received if it is relevant to a matter in dispute and is sufficiently reliable that prudent persons would commonly rely on it in the conduct of their affairs, or corroborates competent evidence. ~~Any part of the evidence may be received in written form if doing so will expedite the hearing without substantially prejudicing the interest of any party. Documentary evidence may be received in the form of copies or excerpts if the original is not readily available.~~ All provisions of Section 67-5251, Idaho Code, apply. Unless otherwise stated in statute, rule, or regulation, the evidentiary standard is proof by a preponderance of the evidence. (3-17-22)( )

**135. DISCRETIONARY JUDICIAL NOTICE.**

Notice may be taken of judicially cognizable facts by the hearing officer ~~or authority~~ on its their own motion or on motion of a party. ~~In addition~~ Also, notice may be taken of generally recognized technical or scientific facts within the Department's specialized knowledge. Parties will be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed including any staff memoranda or data, and the parties will be afforded an opportunity to contest the material so noticed. The Department's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence. (3-17-22)( )

**136. MANDATORY JUDICIAL NOTICE.**

The hearing officer will take judicial notice, on its their own motion or on the motion of any party, of the following admissible, valid, and enforceable materials: ~~Rules of the Department and other state agencies; Federal regulations; State plans of the Department; The Constitutions and statutes of the United States and Idaho; the YES Due Process Protocol, P~~ public records, and ~~S~~ such other materials that a court of law ~~must~~ may judicially notice. (3-17-22)( )

**137. HEARING RECORD.**

The hearing officer must arrange for a record to be made of a hearing. The hearing must be audio recorded unless a party requests a stenographic recording by a certified court reporter, in writing, at least seven (7) days prior to the date of hearing. ~~The record must be transcribed at the expense of the party requesting a transcript and prepayment or guarantee of payment may be required.~~ The requesting party must pay for the transcription, and may be required to prepay or guarantee payment. Once a transcript is requested, any party may obtain a copy at the party's own expense. The Department must maintain the complete record of each contested case for a period of not less than six (6) months after the ~~expiration of the last date for~~ the deadline to request judicial review, unless otherwise provided by law. (3-17-22)( )

**138. DECISION AND ORDER.**

A preliminary order must be issued by the hearing officer not later than thirty (30) days after the case is submitted for decision. The order must include: (1) specific findings on all major facts at issue; (2) a reasoned statement in support of the decision; (3) all other findings and recommendations of the hearing officer; (4) a preliminary decision affirming, reversing, or modifying the action or decision of the Department, or remanding the case for further

proceedings; ~~(5)~~ and the procedures and time limits for filing requests for review of the order. Unless otherwise provided by a statute governing a particular program, motions for reconsideration of a preliminary order will not be accepted. ~~(3-17-22)( )~~

**139. -- 149. (RESERVED)**

**150. REVIEW OF PRELIMINARY ORDERS BY ~~DEPARTMENT~~DIRECTOR.**

Unless otherwise provided in these rules, in cases under the jurisdiction of the ~~Department~~ Director, either party may file a request for review with the ~~Department's~~ Administrative Procedures Section not later than fourteen (14) days from the date the preliminary order was mailed. The request must identify all legal and factual bases of disagreement with the preliminary order. The Director ~~or designee~~ must allow ~~for~~ briefing by the parties and ~~determines whether~~ may allow oral argument ~~will be allowed~~. The Director ~~or designee~~ determines whether a transcript of the hearing is needed, and if so, one will be provided by the party ~~who requests~~ requesting review of the preliminary order. The Director ~~or designee~~ must exercise all ~~of~~ the decision-making power they would have had if they had presided over the hearing. ~~(3-17-22)( )~~

**151. PETITION FOR REVIEW BY BOARD OF HEALTH AND WELFARE.**

In cases under the jurisdiction of the Board, either party may file a petition for review with the ~~Department's~~ Administrative Procedures Section not later than fourteen (14) days from the date the preliminary order was mailed. The request must identify all legal and factual bases of disagreement with the preliminary order. The Administrative Procedures Section will establish a schedule for the submission of briefs, and if allowed, oral argument. The Board chair or designee will determine whether a transcript of the hearing is needed and, if so, one will be provided by the party ~~who requests~~ requesting review of the preliminary order. Board members will exercise all of the decision-making power they would have had if they had presided over the hearing. ~~(3-17-22)( )~~

**152. FINAL ORDER.**

The Board, Director, or designee may affirm, modify, or reverse the order, hold additional hearings, or remand the matter ~~to the hearing officer~~ for ~~further proceedings~~ additional hearings. The decision informs the parties of the procedure and time limits for filing appeals with the district court. Motions for reconsideration of a final order will not be accepted. ~~(3-17-22)( )~~

**153. SERVICE OF PRELIMINARY AND FINAL ORDERS.**

Orders will be deemed to have been served when copies are mailed by hard copy or electronically to all parties of record or their attorneys. ~~(3-17-22)( )~~

**154. MAINTENANCE OF ORDERS.**

All final orders of the Board or the Director will be maintained by the ~~Department's~~ Administrative Procedures Section and made available for public inspection, consistent with the Public Records Act at Title 74, Chapter 1, for at least six (6) months, or until all appeals are concluded, whichever is later. ~~(3-17-22)( )~~

**155. EFFECT OF PETITION FOR JUDICIAL REVIEW.**

The filing of a petition for judicial review will not stay compliance with a final order or suspend the effectiveness of the order, unless otherwise ordered or mandated by law. ( )

**156. -- 198. (RESERVED)**

**199. SPECIFIC CONTESTED CASE PROVISIONS.**

The following ~~s~~Sections of ~~this chapter~~ these rules provide special requirements of various Department divisions or programs that supersede the general provisions of these rules to the extent ~~that~~ they are different. ~~(3-17-22)( )~~

**200. DIVISION OF WELFARE: APPEALS.**

The provisions of Sections 200 through 299 of these rules govern the conduct of individual benefit hearings to determine eligibility for benefits or services in the Division of Welfare ~~and its programs~~. ~~(3-17-22)( )~~

**01. ~~Division of Welfare Programs.~~** The following programs are covered under the ~~following chapter~~ of rules identified rules chapters: ~~(3-17-22)( )~~

- a. IDAPA 16.03.01, “Eligibility for Health Care Assistance for Families and Children”; ( )
- b. IDAPA 16.03.03, “Child Support Services”; ( )
- c. IDAPA 16.03.04, “Idaho Food Stamp Program”; ( )
- d. IDAPA 16.03.05, “Eligibility for Aid to the Aged, Blind, and Disabled (AABD)”; ( )
- e. IDAPA 16.03.08, “Temporary Assistance for Families in Idaho (TAFI) Program”; ( )
- f. IDAPA 16.04.14, “Low-Income Home Energy Assistance Program”; ( )
- g. IDAPA 16.06.12, “Idaho Child Care Program (ICCP).” ( )

**02. Methods for Filing Appeals.** Requests for appeals may be made with the Division of Welfare using any ~~one (1)~~ of the following ~~listed in this subsection~~: (3-17-22)( )

- a. ~~Via the~~ Department’s internet website: (3-17-22)( )
- b. ~~By t~~Telephone; (3-17-22)( )
- c. ~~Via m~~Mail; (3-17-22)( )
- d. In person; and ( )
- e. Other commonly available electronic means. ( )

**201. DIVISION OF WELFARE: TIME FOR FILING APPEAL.**

A decision issued by the Department in a Division of Welfare benefit program will be final and effective unless an individual or representative appeals within thirty (30) days from the date the decision was mailed to the most recent address the Department has on file, except that a recipient or applicant for Food Stamps has ninety (90) days to appeal. An individual or representative may also appeal, when the Department delays in making an eligibility decision or making payment beyond the limits specified in the particular program, within thirty (30) days after the action would have been taken if the Department had acted in a timely manner. (3-17-22)( )

**202. DIVISION OF WELFARE: INFORMAL CONFERENCE.**

An appellant or representative has the right to request an informal conference with the Department or Community Action Agency before the hearing date. This conference may be used to resolve the issue informally or to provide the appellant with information about the hearing or actions. The conference will not affect the appellant’s right to a hearing or the time limits for the hearing. After the conference, the hearing will be held unless the appellant withdraws the appeal, or the Department withdraws the action contested by the appellant. ( )

**203. DIVISION OF WELFARE: WITHDRAWAL OF AN APPEAL.**

An appellant or representative may withdraw an appeal upon request to the hearing officer using any one (1) of the methods listed in Section 200 of these rules. ( )

**204. DIVISION OF WELFARE: TIME LIMITS FOR COMPLETING HEARINGS.**

The Department must conduct the hearing relating to an individual’s benefits and take action within ninety (90) days from the date the hearing request is received, unless ~~as provided in Subsections 204.01 through 204.03 of this rule~~ any of the following apply. (3-17-22)( )

**01. Community Spouse Resources Allowance.** When the hearing request concerns the computed amount of the Community Spouse Resource Allowance, the hearing will be held within thirty (30) days from the date the hearing request is received. ( )

**02. Food Stamps.** When the hearing relates to Food Stamps, the hearing, the decision of the hearing, and the notice regarding the outcome of the hearing will be completed within sixty (60) days from the date the

hearing request is received. ( )

**03. Expedited Hearings.** The Department will expedite hearing requests from appellants for the following reasons: ( )

**a.** Migrant farm workers who are planning to move before the hearing decision would normally be reached; or ( )

**b.** Individuals requesting an expedited fair hearing will be provided a hearing as required ~~according to~~ under 42 CFR 431.224. (3-17-22)( )

**205. DIVISION OF WELFARE: APPEAL OF AUTOMATIC ADJUSTMENTS.**

An appeal will be dismissed if the hearing officer determines that the sole issue is an automatic grant adjustment, change in rule that affects benefit amount or eligibility, or reduction of Medicaid services under state or federal law. ( )

**206. (RESERVED)**

**207. DIVISION OF WELFARE: POSTPONEMENT OF FOOD STAMP HEARINGS.**

An appellant may request, and be granted a postponement of a hearing, not to exceed thirty (30) days. The time limit for the Department's response will be extended for as many days as the hearing is postponed. ( )

**208. -- 249. (RESERVED)**

**250. DIVISION OF WELFARE: FOOD STAMPS DISQUALIFICATION HEARINGS.**

A disqualification hearing will be scheduled when the Department has evidence that an individual has allegedly committed one (1) or more acts of intentional program violations (IPV). ( )

**251. DIVISION OF WELFARE: COMBINING DISQUALIFICATION HEARING AND BENEFIT HEARING.**

The hearing officer must consolidate a hearing regarding benefits or overpayment and a disqualification hearing if the issues are the same or related. The appellant must be notified that the hearings will be combined. ( )

**252. DIVISION OF WELFARE: RIGHT NOT TO TESTIFY.**

~~The hearing officer must advise the appellant that they may refuse to answer questions during a disqualification hearing.~~ Appellant may refuse to answer questions during a disqualification hearing, and must be so advised by the hearing officer. (3-17-22)( )

**253. DIVISION OF WELFARE: FAILURE TO APPEAR.**

If an appellant or representative fails to appear at a disqualification hearing or cannot be located, the hearing will be conducted in their absence. The Department must present proof that advance notice of the hearing was mailed to the appellant's last known address. The hearing officer must consider the evidence and determine if an IPV occurred based solely on the information provided by the Department. The appellant has ten (10) days from the date of the scheduled hearing to show good cause for failure to appear. If an IPV had been established, but the hearing officer determines the appellant had good cause for not appearing, the previous decision will be void and a new hearing will be conducted. The previous hearing officer may conduct the new hearing. ( )

**254. DIVISION OF WELFARE: STANDARD FOR DETERMINING INTENTIONAL PROGRAM VIOLATIONS (IPV).**

The determination that an ~~intentional program violation~~ IPV has been committed must be established by clear and convincing evidence that the appellant committed or intended to commit an IPV. (3-17-22)( )

**255. -- 297. (RESERVED)**

**298. DIVISION OF WELFARE: CHILD SUPPORT SERVICES.**

In a child support enforcement proceeding, an individual or a representative may request a hearing after being served notice of license suspension or notice of an asset withholding order from the Financial Institution Data Match (FIDM)



process. ( )

**01. Time Limits for Requesting a Hearing.** ( )

a. License Suspension. The licensee has twenty-one (21) days from the date of service of the notice either by personal service or certified mail, to request a hearing by filing with the Department to contest the suspension of license or licenses they were served with notice (by personal service or certified mail), to request a hearing contesting their license suspension. A timely request for a hearing stays the suspension of the license or licenses through the issuance of the order by the Department license suspension pending the hearing's outcome. The Department will notify the licensing authority if the suspension is vacated or stayed. (3-17-22)( )

b. Financial Institution Data Match (FIDM). The obligor or co-owner has fourteen (14) days from the date of mailing the notice of asset withholding order to request a hearing in writing to contest the asset being withheld the notice of asset withholding order was mailed to request a hearing contesting the notice. Upon receiving a timely request for hearing, the Department will notify the financial institution that it must continue to hold the asset until an order is issued and the Department provides instructions for the disposition of the asset. If the obligor or co-owner does not file a timely request for hearing, the Department will notify the financial institution to promptly surrender the amount of the asset that has been frozen to the Department. (3-17-22)( )

**02. Time Limits for Completing Hearings.** The Department will hold an administrative hearing within thirty (30) days from the day the Department receives the request for hearing to contest asset withholding from the FIDM process. ( )

**03. Default.** ( )

a. Licensing Authority License Suspension. If the licensee fails to make a timely request for a hearing or fails to appear at the hearing without good cause, the Department will issue an order of Default suspending the license or licenses. On receipt of the final order from the Department, the licensing authority will suspend the license effective the date the order became final, without additional review or hearing. (3-17-22)( )

b. Financial Institution Asset Withholding. If the obligor or co-owner of the asset fails to appear at the hearing without good cause, the Department will issue an order of Default upholding the asset withholding order. On receipt of the final order from the Department, the financial institution will promptly surrender the amount of the asset that has been frozen to the Department. (3-17-22)( )

**04. Time for Filing an Appeal.** An order of suspension or asset withholding order issued by a hearing officer of the Department will be final and conclusive between the parties unless a petition for review is filed within twenty-eight (28) days with the district court. ( )

**299. (RESERVED)**

**300. DIVISION OF MEDICAID: ADMINISTRATIVE REVIEWS FOR PROVIDERS AND FACILITIES.**

**01. Written Request.** An action relating to audited cost reports or Medicaid cost settlement calculations required by administrative rule is final and effective unless the provider or facility requests in writing an administrative review within thirty (30) days after the notice is mailed. The request must: (3-17-22)( )

a. Be signed by the licensed administrator of the facility or by the provider; ( )

b. Identify the challenged decision; ( )

c. State specifically the grounds for its contention that the decision was erroneous; and ( )

d. Include copies of any documentation on which the facility or provider intends to rely to support its position. (3-17-22)( )

**02. Review Conference.** The parties must clarify and attempt to resolve the issues at the review conference, which must be held within thirty (30) days after the request for the administrative review is received. The thirty (30) day requirement may be extended when both parties agree in writing to a specified later date. If the Department determines that additional documentation is needed to resolve the issues, a second session of the conference may be scheduled within thirty (30) days of the initial conference. This second session date may be extended when both parties agree in writing to a specified later date. ( )

**03. Department Decision.** The Department will provide a written decision to the facility or provider. ( )

**04. Exceptions.** This rule does not apply to Department audits, investigations, and actions under IDAPA 16.05.07, "The Investigation and Enforcement of Fraud, Abuse, and Misconduct." ( )

**301. DIVISIONS OF MEDICAID AND BEHAVIORAL HEALTH: SCOPE OF APPEAL HEARING.**  
If the Department's decision after the administrative review is appealed, only issues and documentation that were presented in the administrative review will be are admissible in the appeal hearing. (3-17-22)( )

**302. DIVISIONS OF MEDICAID AND BEHAVIORAL HEALTH: APPEALS PROCESS FOR MEDICAID PARTICIPANTS.**

**01. Medicaid Participant Appeals.** Medicaid and Behavioral Health participants whose appeals are not related to services delivered through a Managed Care Entity (MCE), ~~as defined in Section 010 of these rules, must use the appeals process provided in Sections 101 through 199 of these rules.~~ (3-17-22)( )

**a.** Must use the appeals process under Sections 101 through 199, and Subsection 200.02 of these rules; and ( )

**b.** Are entitled to procedural rights provided in 42 CFR 431.230 through 42 CFR 431.246. ( )

**02. Medicaid Participant Appeals Related to Services Delivered Through Managed Care Entity MCE.** (3-17-22)( )

**a.** Participants whose a Appeals are related to services delivered through an MCE managed care entity must utilize use the complaint, grievance, and appeal process required by the Department and the managed care contractor MCE. (3-17-22)( )

**b.** Participants whose appeals are related to services delivered through a Managed Care Entity (MCE) must follow the a Appeals follow the process in 42 CFR 438.402 through 42 CFR 438.408. (3-17-22)( )

**03. Expedited Fair Hearings for Medicaid Participants.** The Department will provide a process for expedited fair hearings for Medicaid and Behavioral Health participants ~~in accordance with~~ under 42 CFR Part 438 or 431, as applicable. (3-17-22)( )

**303. -- 399. (RESERVED)**

**400. DIVISION OF PUBLIC HEALTH: LABORATORIES.**

A notice of grounds for denial, suspension, revocation, or renewal becomes final and effective unless the applicant or responsible party files a written appeal by registered or certified mail within fourteen (14) days of receipt of the notice. A hearing will be held not more than twenty-eight (28) days from receipt of the appeal. The applicant or responsible person will receive at least fourteen (14) days' advance of notice of the hearing date. If the Department finds that the public health, safety, or welfare imperatively requires emergency action, and incorporates ~~the~~ findings to that effect in its notice of denial, suspension, or revocation, summary suspension of the approval may be ordered. (3-17-22)( )

**401. DIVISION OF PUBLIC HEALTH: REPORTABLE DISEASES.**

An order for isolation or quarantine is a final agency action ~~as set forth in~~ under Section 56-1003(7), Idaho Code. Other orders or restrictions ~~as specified in~~ under IDAPA 16.02.10, "Idaho Reportable Diseases," become final and

effective unless an appeal is filed within five (5) working days after the effective date of the order or restriction.

(3-17-22)( )

**01. Conduct of Hearing.** The Department may take ~~whatever necessary~~ precautions and make whatever arrangements ~~are necessary~~ for the conduct of such hearing to ~~insure that the health of participants and the public participants' and the public's health~~ is not jeopardized.

(3-17-22)( )

**02. Review.** Any person directly affected by an order or restriction may file exceptions to the Director's determination, which will be reviewed by the Board. The order or restriction remains effective unless rescinded by the Board.

( )

**402. DIVISION OF PUBLIC HEALTH: FOOD ESTABLISHMENTS.**

Appeal procedures ~~will be as provided~~ are listed under IDAPA 16.02.19, "Idaho Food Code," Section 861.

(3-17-22)( )

**403. -- 499. (RESERVED)**

**500. DIVISION OF FAMILY AND COMMUNITY SERVICES: CHILD PROTECTION CENTRAL REGISTRY ADMINISTRATIVE REVIEW.**

~~A substantiated incident of child abuse, neglect, or abandonment will automatically become effective and be placed on the Child Protection Central Registry unless the individual identified in the notification files a request for an administrative review within twenty-eight (28) days from the date on the notification. The request for an administrative review must be mailed to the Family and Community Services (FACS) Division Administrator.~~ Appeal procedures are provided under IDAPA 16.06.01, "Child and Family Services", Section 564.

(3-17-22)( )

**01. Content of Request.** ~~The request for an administrative review must identify the notification being protested and explain the reasons for disagreement. Additional information may be provided for the Administrator's consideration.~~

(3-17-22)

**02. Administrative Review.** ~~The FACS Division Administrator will consider all available information and determine whether the incident was erroneously determined to be "substantiated." The Administrator will furnish a written decision to the individual.~~

(3-17-22)

~~**501. DIVISION OF FAMILY AND COMMUNITY SERVICES: INTENSIVE BEHAVIORAL INTERVENTION (IBI) ADMINISTRATIVE REVIEW.**~~

~~**01. Request for Administrative Review.** An action relating to certification, billing, or reimbursement is final and effective unless the provider requests in writing an administrative review within twenty-eight (28) days after the notice is mailed. The request must be signed by the provider, identify the challenged decision, and state specifically the grounds for its contention that the decision was erroneous. The parties must clarify and attempt to resolve the issues at the review conference, which must be held within twenty-eight (28) days after the request for the administrative review. If the Department determines that additional documentation is needed to resolve the issues, a second session of the conference may be scheduled. The Department will provide a written decision to the facility or provider.~~

(3-17-22)

~~**02. Scope of Appeal Hearing.** If the Department's decision after the administrative review is appealed, only issues and documentation that were presented in the administrative review will be admissible in the appeal hearing.~~

(3-17-22)

**501. (RESERVED)**

**502. DIVISION OF FAMILY AND COMMUNITY SERVICES: INFANT TODDLER PROGRAM - INDIVIDUAL CHILD COMPLAINTS.**

**01. Individual Child Complaints.** Parents or providers may request a hearing if they disagree with decisions regarding the identification, evaluation, or placement of a child, or, with the provision of appropriate early intervention services. A request must be filed with the Department's Administrative Procedures Section within

twenty-eight (28) days from the date the decision is issued. The request for a hearing must identify: ( )

- a. The child's name, home address, and the early intervention program serving the child; ( )
- b. A statement identifying the facts and the reason for disagreement with the decision; ( )
- c. The name of the provider who is serving the child; ( )
- d. A proposed resolution; and ( )
- e. A dated signature of the person who is submitting the request. ( )

**02. Mediation.** The Department must offer mediation services at Department expense, which must be held within thirty (30) days after the request for a hearing. A qualified and impartial mediator who is trained in effective mediation techniques will meet at a location convenient to both parties to help them find a solution to the complaint in an informal, non-adversarial atmosphere. ( )

- a. The parties must sign a confidentiality agreement before these discussions. Information discussed in the mediation cannot be used in any subsequent proceeding. ( )
- b. If there is a resolution, both parties must sign a mediation agreement, which is enforceable in state or federal court. ( )

**03. Due Process Hearings.** The hearing must be held, and a written decision mailed within thirty (30) days from the receipt of the request for a hearing, whether or not mediation occurs. The hearing officer may bar any party from introducing a relevant evaluation or recommendation that has not been disclosed at least five (5) calendar days before the hearing, unless the other party consents. (3-17-22)( )

- a. Current Services. Appropriate early intervention services that are being provided at the time of the decision will continue unless the parties agree otherwise. ( )
- b. Initial Application. If the decision involves an application for initial services, any services that are not in dispute must be provided. ( )

**503. DIVISION OF FAMILY AND COMMUNITY SERVICES: INFANT TODDLER PROGRAM - ADMINISTRATIVE COMPLAINTS.**

**01. Filing of Complaint.** An individual or organization, including those from another State, may file a written, signed complaint against any public or private service provider, alleging a violation of the Part C program and regulations at 34 CFR Part 303. The complaint must identify what requirement has been violated and the facts upon which the complaint is based. Complaints can include an allegation that a provider failed to implement the decision after a hearing. The complaint must be filed with the Department's Administrative Procedures Section within one (1) year of the alleged violation, except in the following circumstances: ( )

- a. If there is a continuing violation for that child or other children; or ( )
- b. If the complaint requests reimbursement or corrective action for a violation that occurred not more than three (3) years prior to the date the complaint is received by the public agency. ( )

**02. Investigation and Decision.** Upon receipt, the Department has sixty (60) days, unless exceptional circumstances exist, to: ( )

- a. Investigate the complaint, including conducting an independent, on-site investigation if necessary; ( )
- b. Receive additional information about the complaint; ( )

- c. Make an independent determination whether a violation occurred; ( )
- d. Issue a written decision with findings, conclusions, and an explanation for the decision. ( )

**03. Resolution.** If the Department concludes that appropriate services were or are not being provided, the decision must address remedial action including, if appropriate, the award of monetary reimbursement or corrective action appropriate to the needs of the child and family, technical assistance, and negotiation. The Department must also address appropriate future services for all infants and toddlers with disabilities and their families. ( )

**04. Extent of Review.** No issue that is being addressed in an active hearing process can be dealt with in an administrative complaint until the conclusion of the hearing. Any issue that is not part of the hearing must be resolved within the sixty (60) day review time. Issues that have already been decided in the hearing are final and binding on the complainant. ( )

**504. -- 599. (RESERVED)**

**600. DIVISION OF LICENSING AND CERTIFICATION: ~~REQUEST FOR~~ ADMINISTRATIVE REVIEW.**

**01. Written Request.** An action ~~relating to~~ limiting licensure or certification is final and effective unless the provider or facility requests in writing an administrative review within twenty-eight (28) days after the notice is mailed. The request must: (3-17-22)( )

- a. Be signed by the licensed administrator of the facility; or by the provider; (3-17-22)( )
- b. Identify the challenged decision; and ( )
- c. State specifically the grounds for its contention that the decision was erroneous. ( )

**02. Review Conference.** An administrative review conference must be held within twenty-eight (28) days of receipt of the a valid request for ~~the~~ administrative review. ~~The twenty-eight (28) day requirement may be unless~~ extended when both parties agree in writing to a specified later date. ~~The parties must clarify and attempt to resolve the issues during the administrative review conference. If the Department determines additional documentation is needed to resolve the issues, a second session of the review conference may be scheduled.~~ (3-17-22)( )

- a. The purpose of the conference is to clarify and attempt to resolve the issues. ( )
- b. If the Department determines additional information is needed, a second session of the review conference may be scheduled. ( )

**03. Department Decision.** The Department will provide a written decision to the facility or provider within thirty (30) days of the conclusion of the administrative review conference. ( )

**601. -- 699. (RESERVED)**

**700. DIVISION OF BEHAVIORAL HEALTH: REQUEST FOR ADMINISTRATIVE REVIEW.**

**01. Written Request.** An action relating to ~~program approval~~ inspections of a substance use disorder provider or program is final and effective unless the provider or ~~facility~~ program requests in writing an administrative review within twenty-eight (28) days after the notice is mailed. The request must: (3-17-22)( )

- a. Be signed by the ~~program~~ administrator of the facility program; (3-17-22)( )
- b. Identify the challenged decision; and ( )

c. State specifically the grounds for its contention that the decision was erroneous. ( )

**02. Review Conference.** The parties must clarify and attempt to resolve the issues at the review conference, which must be held within twenty-eight (28) days after the request for the administrative review. The twenty-eight (28) day requirement may be extended when both parties agree in writing to a specified later date. If the Department determines that additional documentation is needed to resolve the issues, a second session of the conference may be scheduled. ( )

**03. Department Decision.** The Department will provide a written decision to the ~~facility or~~ provider or program within thirty (30) days of the conclusion of the administrative review conference. (3-17-22)( )

~~701. -- 749. (RESERVED)~~

~~**750. DIVISION OF BEHAVIORAL HEALTH: YOUTH EMPOWERMENT SERVICES (YES).** Contested case proceedings for non-Medicaid Youth Empowerment Services (YES) are governed by the general provisions of this chapter, unless otherwise specified in Section 751 of these rules. (3-17-22)~~

~~**751. DIVISION OF BEHAVIORAL HEALTH: YOUTH EMPOWERMENT SERVICES (YES) GRIEVANCE PROCESS.**~~

~~**01. Grievance.** Individuals, family members, or legal guardians may choose to submit a written request to participate in this grievance process regarding non-Medicaid matters related to YES services. A grievance is a statement of dissatisfaction about any matter other than an adverse benefit determination. (3-17-22)~~

~~**02. Grievance Content.** A grievance must include: (3-17-22)~~

~~**a.** The full name, mailing address, phone numbers, and e-mail contact for the individual who is the complainant using YES services; (3-17-22)~~

~~**b.** The full name, mailing address, phone numbers, and e-mail contact of the person submitting the grievance on behalf of the complainant; (3-17-22)~~

~~**c.** A detailed explanation of the decision or non-Medicaid matter related to YES services that is being contested from the perspective of the complainant; and (3-17-22)~~

~~**d.** Any steps that have already been taken to resolve the issue. (3-17-22)~~

~~**03. Department Response to Grievance.** The Department will respond to the complainant within sixty (60) days of receipt of the grievance on its findings. The grievance process may include gathering additional information from involved parties and may run concurrent to the fair hearing process. (3-17-22)~~

~~**a.** The Department will address concerns related to dissatisfaction with a process or a provider at the lowest or most appropriate organizational level possible. (3-17-22)~~

~~**b.** The Department will document the filing of the grievance and the outcome in its response to the complainant. (3-17-22)~~

~~**04. Expedited Hearings.** When the Division of Behavioral Health determines that an expedited fair hearing is needed using the same standards described in Section 302 of these rules, the Department will provide an expedited fair hearing for non-Medicaid eligible YES individuals in compliance with time limits for an agency found in 42 CFR 431 for YES inpatient services, or the time limits for a PAHP found in 42 CFR 438, for outpatient YES services. (3-17-22)~~

~~**75201. -- 999. (RESERVED)**~~

## IDAPA 17 – IDAHO INDUSTRIAL COMMISSION

### 17.10.01 – ADMINISTRATIVE RULES UNDER THE CRIME VICTIMS COMPENSATION ACT

#### DOCKET NO. 17-1001-2301 (ZBR CHAPTER REWRITE)

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 72-1004 and 72-1013, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Two public hearings concerning this rulemaking will be held as follows:

<b>Thursday, September 7, 2023, from 1:00 p.m. to 2:00 p.m. MT</b>
<b>Coral Room, Chinden Campus 11321 W. Chinden Blvd., Boise, ID 83714</b>

<b>Wednesday, September 20, 2023, from 1:30 p.m. to 2:30 p.m. MT</b>
<b>Sawtooth Hearing Room, Chinden Campus 11321 W. Chinden Blvd., Boise, ID 83714</b>

Information on virtual attendance will be made available on the Commission's website: <https://crimevictimcomp.idaho.gov/>.

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

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

In accordance with [Executive Order 2020-01: Zero-Based Regulation](#), the Industrial Commission is striving to prevent the accumulation of costly, ineffective, outdated regulations, and reduce regulatory burden to achieve a more efficient operation of government. This rulemaking is being made by the agency, in collaboration with stakeholders, to increase transparency and streamline access to the Crime Victims Compensation Program. Changes include removal of the requirement to obtain Commission approval prior to changing physicians, removal of medical fee schedule from the chapter, and extending the time to submit bills for treatment from two years to three years.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: There are no fee changes associated with this proposed rulemaking.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: This rulemaking is not anticipated to have any fiscal impact on general funds, state funds, or any other known funds.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 3, 2023 Idaho Administrative Bulletin, [Vol. 23-5, pages 161-162](#) and the June 7, 2023 Idaho Administrative Bulletin, [Vol. 23-6, pages 54-55](#).

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: There are no incorporation by reference in this chapter.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Kamerron Slay, (208) 334-6017 or [kamerron.slay@iic.idaho.gov](mailto:kamerron.slay@iic.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2023.

DATED this 2nd day of August, 2023.

George Gutierrez, Director  
Industrial Commission  
11321 W. Chinden Blvd.  
Boise, Idaho 83714  
P.O. Box 83720  
Boise, Idaho 83720-0041  
Phone: 208-334-6000  
Fax: 208-334-2321

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 17-1001-2301**  
**(ZBR Chapter Rewrite)**

**17.10.01 – ADMINISTRATIVE RULES UNDER THE CRIME VICTIMS COMPENSATION ACT**

**000. LEGAL AUTHORITY.**

~~This chapter is adopted under the legal authority of~~ Sections 72-1004 and 72-1013, Idaho Code. ~~(3-31-22)~~( )

**001. SCOPE.**

This chapter includes the Industrial Commission's procedures for administering the Crime Victim's Compensation Act. ( )

~~**002. ADMINISTRATIVE APPEALS.**~~

~~Chapter 1, Section 11, Subsection 5, provides for appeals to the Commission from decisions of the Crime Victims Compensation Bureau.~~ (3-31-22)

~~**003.**~~ -- 009. (RESERVED)

**010. DEFINITIONS.**

~~**01. Commission.** The Idaho Industrial Commission.~~ (3-31-22)

**021. Crime Victim's Compensation Program ("CVCP").** The program administered by the Crime Victim's ~~Bureau~~ Division of the Idaho Industrial Commission ~~under~~ pursuant to the Crime Victim's Compensation



Act. (3-31-22)( )

~~032. Employer. The employer at the time of the criminally injurious conduct on which the Application for Compensation is based.~~ (3-31-22)( )

~~03. Good Cause. "Good cause" as that term is found in the Crime Victim's Compensation Act will be determined at the Commission's discretion on a case-by-case basis.~~ ( )

~~04. Medical Services. Words and terms used for determining the allowable payment for medical services under these rules are defined in Subsections 010.04.a. through 010.04.h. For purposes of the fee schedule adopted by the Commission as authorized by Section 72-1026, Idaho Code, the following terms apply:~~ (3-31-22)( )

a. "Allowable payment" means the lower of the charge for medical services calculated in accordance with this rule or as billed by the provider. ( )

b. "Ambulatory Surgery Center (ASC)" means a facility providing surgical services on an outpatient basis only. ( )

c. "Hospital" is any acute care facility providing medical or rehabilitation services on an inpatient and outpatient basis. ( )

i. Large Hospital means any hospital with more than one hundred (100) acute care beds. ( )

ii. Small Hospital means any hospital with one hundred (100) acute care beds or less. ( )

d. "Provider" means any person, firm, corporation, partnership, association, agency, institution, or other legal entity providing any kind of medical service related to the treatment of a claimant for benefits under the Idaho Crime Victims Compensation Act. ( )

e. "Medical Service" means medical, surgical, dental, mental health, or other attendance or treatment, nurse and hospital service, medicine, apparatus, appliance, prostheses and related service, facility, equipment and supply. ( )

f. "Reasonable" means a charge does not exceed the Provider's "usual" charge and does not exceed the "customary" charge, as defined in Paragraph 010.04.h below. (3-31-22)( )

g. "Usual" means the most frequent charge made by an individual Provider for a given medical service to non-industrially injured patients. (3-31-22)( )

h. "Customary" means a charge that has an upper limit no higher than the 90th percentile, as determined by the Commission, of usual charges made by Idaho Providers for a given medical service. ( )

~~05. Wages. Means the wages at the time of the criminally injurious conduct on which the Application for Compensation is based and includes non-cash remuneration such as lodging and meals provided by the Employer and gratuities such as tips, which are not paid by the employer, but that are received by the victim in the normal course of his employment.~~ (3-31-22)

#### 011. APPLICATIONS CLAIMS FOR COMPENSATION.

01. Claim for Benefits. ~~To claim benefits under the Crime Victims Compensation Act, the claimant shall file an Application for Compensation with the Crime Victim's Compensation Bureau of the Commission. Applications for Compensation shall be made using the form approved by the Commission. A claim for benefits is initiated by filing an Application in the form available on the agency's website. An Application for Compensation is deemed filed when~~ the claimant has provided the required information and the signed application is received at the Commission's office in Boise. (3-31-22)( )

~~02. **Providing Information.** Before paying benefits to any claimant, the Commission shall gather sufficient information to establish that the claimant is eligible for benefits. The Commission may require the claimant to assist the Commission in obtaining that information. (3-31-22)~~

**02. Proceedings to Secure Benefits. ( )**

**a. Initial Determination by CVCP Division. After sufficient information has been gathered, the CVCP Division may make an initial determination granting, partially granting, or denying benefits. An initial determination of the CVCP Division shall be final and conclusive as to all matters adjudicated in the determination ( )**

**b. Request for Reconsideration. Within twenty (20) days from the date that the initial determination is issued, the claimant may file a request with the CVCP Division that the division reconsider its decision, or the CVCP Division may reconsider the matter on its own motion. The decision of the CVCP Division on reconsideration shall be final and conclusive as to all matters adjudicated in the decision. ( )**

~~03. **Employment Verification.** To verify information concerning a victim's employment, the Commission may require the victim's Employer or Employers to complete an Employment Verification form or the Commission may obtain such information from an Employer by telephone. (3-31-22)~~

~~04. **Order.** After sufficient information has been gathered pursuant to Subsection 011.02 of this rule, the Commission may enter an award granting or partially granting benefits or an order denying benefits. The Commission may also enter orders necessary to further the purposes of the Act. (3-31-22)~~

~~05. **Finality of Order.** An award or order issued by the Commission shall be final and conclusive as to all matters considered in the award or order; provided that within twenty (20) days from the date that such an award or order is issued, the claimant may file a request that the Crime Victim's Compensation Program reconsider the order, or the Crime Victim's Compensation Program may reconsider the matter on its own motion, and the order of the Crime Victim's Compensation Program shall be final upon issuance of the order on reconsideration; and provided further that, within forty five (45) days from the date that any order is issued by the Crime Victim's Compensation Program, a claimant may file a Request for Hearing before the Commission. The Hearing shall be held in accordance with the procedures set out in Section 012 of these rules. Requests for Hearing before the Commission and requests that the Crime Victim's Compensation Program reconsider an order is deemed filed when received at the Commission's office in Boise. (3-31-22)~~

~~06. **Recipients of Payments for Medical Services.** If, pursuant to any order of the Commission or the Crime Victims Bureau, it is determined that a claimant is entitled to payment of medical expenses as provided in Section 72-1019(2), Idaho Code, or funeral or burial expenses as provided in Section 72-1019(4), Idaho Code, payment shall be made directly to the medical provider or the provider of funeral or burial services unless the claimant has already paid the provider; if the claimant has already paid the provider, payment shall be made to the claimant. (3-31-22)~~

~~07. **Allowable Payments for Medical Services.** The Commission shall pay providers the allowable payment for medical services under these rules adopted in accordance with Section 72-1026, Idaho Code. (3-31-22)~~

~~**a. Adoption of Standard.** The Commission hereby adopts the Resource Based Relative Value Scale (RBRVS), published by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services, as amended, as the standard to be used for determining the allowable payment under the Crime Victims Compensation Act for medical services provided by providers other than hospitals and ASCs. The standard for determining the allowable payment for hospitals and ASCs shall be: (3-31-22)~~

~~i. For large hospitals: Eighty five percent (85%) of the reasonable inpatient charge. (3-31-22)~~

~~ii. For small hospitals: Ninety percent (90%) of the reasonable inpatient charge. (3-31-22)~~

~~iii. For ambulatory surgery centers (ASCs) and hospital outpatient charges: Eighty percent (80%) of the reasonable charge. (3-31-22)~~

~~iv. Surgically implanted hardware shall be reimbursed at the rate of actual cost plus fifty percent (50%). (3-31-22)~~

~~v. Paragraph 011.07.c. of this rule, does not apply to hospitals or ASCs. The Commission shall determine the allowable payment for hospital and ASC services based on all relevant evidence. (3-31-22)~~

~~b. Conversion Factors. The following conversion factors shall be applied to the fully implemented facility or non facility Relative Value Unit (RVU) as determined by place of service found in the latest RBRVS, as amended, that was published before December 31 of the previous calendar year for a medical service identified by a code assigned to that service in the latest edition of the Physicians' Current Procedural Terminology (CPT), published by the American Medical Association, as amended:~~

<b>MEDICAL FEE SCHEDULE</b>			
<b>DESCRIPTION</b>	<b>CODE RANGE(S)</b>		<b>CONVERSION-FACTOR</b>
Anesthesia	00000-09999		\$60.05
Surgery- Group One	22000-22999 23000-24999 25000-27299 27300-27999 29800-29999 61000-61999 62000-62259 63000-63999	Spine Shoulder, Upper Arm, & Elbow Forearm, Wrist, Hand, Pelvis & Hip Leg, Knee, & Ankle Endoscopy & Arthroscopy Skull, Meninges & Brain Repair, Neuroendoscopy & Shunts Spine & Spinal Cord	\$144.48
Surgery- Group Two	28000-28999 64550-64999	Feet & Toes Nerves & Nervous System	\$129.00
Surgery- Group Three	13000-19999 20650-21999	Integumentary System Musculoskeletal System	\$113.52
Surgery- Group Four	20000-20615 30000-39999 40000-49999 50000-59999 60000-60999 62260-62999 64000-64549 65000-69999	Musculoskeletal System Respiratory & Cardiovascular Digestive System Urinary System Endocrine System Spine & Spinal Cord Nerves & Nervous System Eye & Ear	\$87.72
Surgery- Group Five	10000-12999 29000-29799	Integumentary System Casts & Strapping	\$69.14
Radiology	70000-79999	Radiology	\$87.72
Pathology & Laboratory	80000-89999	Pathology & Laboratory	To Be Determined

<b>MEDICAL FEE SCHEDULE</b>			
<b>DESCRIPTION</b>	<b>CODE RANGE(S)</b>		<b>CONVERSION-FACTOR</b>
Medicine— Group One	90000—90749 94000—94999 97000—97799 97800—98999	Immunization, Injections, & Infusions Pulmonary / Pulse Oximetry Physical Medicine & Rehabilitation Acupuncture, Osteopathy, & Chiropractic	\$46.44
Medicine— Group Two	90750—92999 96040—96999 99000—99607	Psychiatry & Medicine Assessments & Special Procedures E / M & Miscellaneous Services	\$66.56
Medicine— Group Three	93000—93999 95000—96020	Cardiography, Catheterization, & Vascular Studies Allergy / Neuromuscular Procedures	\$72.24

(3-31-22)

~~e.~~ The Conversion Factor for the Anesthesiology CPT Codes shall be multiplied by the Anesthesia Base Units assigned to that CPT Code by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services as of December 31 of the previous calendar year, plus the allowable time units reported for the procedure. Time units are computed by dividing reported time by fifteen (15) minutes. Time units will not be used for CPT Code 01996. (3-31-22)

~~d.~~ Adjustment of Conversion Factors. The conversion factors set out in this rule may be adjusted each fiscal year (FY), starting with FY 2012, as determined by the Commission. (3-31-22)

~~e.~~ Services Without a CPT Code, RVU or Conversion Factor. The allowable payment for medical services that do not have a current CPT code, a currently assigned RVU, or a conversion factor will be the reasonable charge for that service, based upon the usual and customary charge and other relevant evidence, as determined by the Commission. Where a service with a CPT Code, RVU, and conversion factor is, nonetheless, claimed to be exceptional or unusual, the Commission may, notwithstanding the conversion factor for that service set out in Subsection 011.07.b. of this rule, determine the allowable payment for that service, based on all relevant evidence. (3-31-22)

~~f.~~ Coding. The Commission will generally follow the coding guidelines published by the Centers for Medicare and Medicaid Services and by the American Medical Association, including the use of modifiers. The procedure with the largest RVU will be the primary procedure and will be listed first on the claim form. Modifiers will be reimbursed as follows: (3-31-22)

- ~~i.~~ Modifier 50: Additional fifty percent (50%) for bilateral procedure. (3-31-22)
- ~~ii.~~ Modifier 51: Fifty percent (50%) of secondary procedure. This modifier will be applied to each medical or surgical procedure rendered during the same session as the primary procedure. (3-31-22)
- ~~iii.~~ Modifier 80: Twenty-five percent (25%) of coded procedure. (3-31-22)
- ~~iv.~~ Modifier 81: Fifteen percent (15%) of coded procedure. This modifier applies to MD and non-MD assistants. (3-31-22)

~~08.~~ **Wage Loss Benefits.** For the purpose of determining compensation benefits under Sections 72-1019(1) and 72-1019(3), Idaho Code, “wages received at the time of the criminally injurious conduct” shall be the

~~victim's gross weekly wage; which shall be determined under Section 72-419(1)-(3), Idaho Code, if applicable, and if not, as follows:~~ (3-31-22)

~~**a.** If the Wages were fixed by the hour, and the victim worked or was scheduled to work the same number of hours each week, the weekly wage shall be the hourly rate times the number of hours that the victim worked or was scheduled to work each week, plus one-half (1/2) the hourly wage times the number of hours worked or scheduled each week in excess of forty (40) hours if the victim was paid time and a half for work in excess of forty (40) hours per week.~~ (3-31-22)

~~**b.** If the Wages were fixed by the hour and the victim did not work the same number of hours each week, or if the victim was paid on a piecework or commission basis, the weekly wage shall be computed by averaging the amounts that the victim was paid during his last four completed pay periods prior to the criminally injurious conduct and converting that amount to a weekly basis using a method consistent with 72-419(1)-(3); provided that, if the victim was employed for less than four (4) pay periods before the criminally injurious conduct, the average shall be computed based upon the time period that he worked.~~ (3-31-22)

~~**e.** If none of the above methods are applicable, the weekly wage shall be computed in a manner consistent with the above methods.~~ (3-31-22)

~~**09. Treating Physician.** A victim may choose his own treating physician. If, after filing an Application for Compensation, a victim changes physicians without prior approval of the Commission, or if, without prior approval of the Commission, he seeks treatment or examination by a physician to whom he was referred by his treating physician, the Commission may deny payment for such treatment or examination.~~ (3-31-22)

~~**10. Overpayment.** If the Commission erroneously makes payments, the Commission may reduce future payments by an amount equal to the overpayment or request a refund when overpayments are made to either the claimant or the provider.~~ (3-31-22)

~~**11. Weekly Compensation Benefits If Victim Employable But Not Employed.** If a victim is qualified under Section 72-1019(7)(a), Idaho Code, the following provisions apply:~~ (3-31-22)

~~**a.** If at the time of the injurious conduct the victim was receiving unemployment benefits and as a result of that conduct the victim becomes ineligible for those benefits, the claimant's weekly benefits under the Crime Victims Compensation Act shall be the lesser of one hundred fifty dollars (\$150) or his weekly benefit amount under the Employment Security Law.~~ (3-31-22)

~~**b.** If at the time of the criminally injurious conduct the victim was unemployed, but scheduled to begin employment on a date certain and if he was unable to work for one (1) week as a result of that conduct, weekly benefits under the Crime Victims Compensation Act shall be the lesser of one hundred fifty dollars (\$150) or two-thirds (2/3) of the amount that he would have earned at his scheduled employment, and those benefits shall be payable beginning on the date that his employment was scheduled to begin.~~ (3-31-22)

~~**e.** If prior to the criminally injurious conduct the victim was performing necessary household duties which he is disabled from performing as a result of that conduct and it is necessary to employ a person who does not reside in the victim's house to perform those duties, the victim shall receive weekly benefits under the Crime Victims Compensation Act equal to the amount paid to the person so employed, but not exceeding one hundred fifty dollars (\$150) per week.~~ (3-31-22)

~~**d.** In other circumstances, the Commission may award an amount it deems appropriate.~~ (3-31-22)

~~**12. Reimbursement for Transportation Expenses.** If the claimant utilizes a private vehicle, reimbursement shall be at the mileage rate allowed by the State Board of Examiners for state employees. Reimbursement shall be provided only if services are not available in the local area and is limited to one (1) round trip per day. The claimant shall not be reimbursed for the first fifteen (15) miles of any round trip, nor for traveling any round trip of fifteen (15) miles or less. Such distance shall be calculated by the shortest practical route of travel. The mileage reimbursement amount shall be credited to the medical benefit.~~ (3-31-22)

~~13. **Payment of Bills.** Bills for treatment and sexual assault forensic examinations must be submitted within two (2) years from the date of treatment or the date of eligibility, whichever is later, to be compensable. (3-31-22)~~

~~012. **HEARING PROCEDURES.**~~

~~01. **Request for Hearing.** If a Request for Hearing is filed, an informal hearing shall be held. The Commission may conduct the hearing or it may assign the matter to a Commissioner or Referee. If the matter is assigned to a Commissioner or a Referee, the Commissioner or Referee shall submit recommended findings and decision to the Commission for its review. (3-31-22)~~

~~02. **Recommendations.** If the Commission does not approve the recommendations of a member or Referee, the Commission may: (3-31-22)~~

~~a. Review the record and enter its own findings and decision; (3-31-22)~~

~~b. Conduct another informal hearing and issue a decision based upon the record of both hearings; or (3-31-22)~~

~~e. Assign the matter to another member or Referee to conduct another informal hearing and make recommendations pursuant to Subsection 012.01 above based upon the record of both hearings. (3-31-22)~~

~~03. **Notice of Hearing.** The Commission shall give the claimant at least ten (10) days' advance written notice of the time and place of hearing and of the issues to be heard, either by personal service or certified mail. Service by mail shall be deemed complete when a copy of such notice is deposited in the United States post office, with postage prepaid, addressed to a party at his last known address as shown in the records and files of the Commission. Evidence of service by certificate or affidavit of the person making the same shall be filed with the Commission. (3-31-22)~~

~~04. **Transcript of Hearing.** All hearings shall be tape recorded. In addition, the Commission may arrange for a stenographic or machine transcription of any hearing. (3-31-22)~~

~~05. **Record.** At the hearing the Application for Compensation filed by the claimant and any other documents in the Commission's file that contain information relevant to the issues in the case shall be admitted into the record. Such documents shall be marked for identification and the record shall specify that those documents are admitted. The Commission, member, or Referee conducting the hearing shall give those documents the weight that is appropriate under the circumstances of the particular case. (3-31-22)~~

~~06. **Evidence.** At the hearing, after the claimant has presented his evidence, the Commission, or the Commissioner or Referee conducting the hearing shall allow an employee of the Commission to present evidence. After the presentation of evidence by an employee of the Commission, the Commission, or the Commissioner or Referee conducting the hearing may, in its or his discretion, allow any other person to testify. (3-31-22)~~

~~07. **Finality of Decision.** After a hearing, the decision of the Commission shall be final and conclusive as to all matters adjudicated. Within twenty (20) days from the date that such decision is issued, the claimant may file a Motion for Reconsideration or the Commission may reconsider the matter on its own motion. (3-31-22)~~

~~08. **Crime Victim's Compensation Program Review.** At the request of the claimant or on its own motion the Crime Victim's Compensation Program may review and amend any final order or award, within three (3) years of the date of issue of such order or award: (3-31-22)~~

~~a. If there is a change in circumstances that affects the claimant's entitlement to benefits; (3-31-22)~~

~~b. To correct a manifest injustice; (3-31-22)~~

~~e. If the order or award is based upon facts which were misrepresented or that were not fully disclosed; or (3-31-22)~~

~~d. To comply with the annual review requirements of Section 72-1021, Idaho Code. (3-31-22)~~

~~09. **Subpoenas.** Subpoenas shall be served in the manner provided by the Idaho Rules of Civil Procedure. Witness fees and mileage shall be in the amounts provided by the Idaho Rules of Civil Procedure and the Claimant shall pay the fees of any witness who is subpoenaed to testify in his behalf. (3-31-22)~~

**012. HEARING PROCEDURES.**

**01. Request for Hearing Before Commission.** Within forty-five (45) days from any final and conclusive initial determination of the CVCP Division, a claimant who disagrees with the determination may request a de novo hearing on the compensability of the subject claim before the Commission. Such a request must be received by the Commission within forty-five (45) days following the initial determination or order on reconsideration of the initial determination. The Commission may conduct the hearing or it may assign the matter to a Commissioner or Referee. If the matter is assigned to a Commissioner or a Referee, the Commissioner or Referee shall submit recommended findings and decision to the Commission for its review. ( )

**02. Recommendation.** If the Commission does not approve the recommendations of a Commissioner or Referee, the Commission may review the record and enter its own findings and decision. ( )

**03. Notice of Hearing.** The Commission shall give the claimant at least ten (10) days' advance written notice of the time and place of hearing and of the issues to be heard, either by personal service, certified mail, or electronically to the email address provided by the claimant. Service by mail shall be deemed complete when a copy of such notice is deposited in the United States post office, with postage prepaid, addressed to a party at their last known address as shown in the records and files of the Commission. Evidence of service by certificate or affidavit of the person making the same shall be filed with the Commission. Service by electronic means is deemed complete upon receipt by the intended party. ( )

**04. Transcript of Hearing.** All hearings shall be recorded. ( )

**05. Subpoenas.** Subpoenas shall be served in the manner provided by the Idaho Rules of Civil Procedure. Witness fees and mileage shall be in the amounts provided by the Idaho Rules of Civil Procedure and the claimant shall pay the fees of any witness who is subpoenaed to testify on their behalf. ( )

**06. Record.** At the hearing the Application for Compensation filed by the claimant and any other documents in the Commission's file that contain information relevant to the issues in the case shall be admitted into the record. Such documents shall be marked for identification and the record shall specify that those documents are admitted. The Commission, Commissioner, or Referee conducting the hearing shall give those documents the weight that is appropriate under the circumstances of the particular case. ( )

**07. Evidence.** At the hearing the claimant may present such testimonial or other evidence that the claimant would have the Commission consider in support of the claim for benefits. Such evidence may include evidence previously considered by the CVCP Division in connection with the initial determination, or new evidence. The Commission shall allow a representative of the CVCP Division to present testimonial or other evidence in support of the CVCP Division's initial determination. ( )

**08. Finality of Decision.** After a hearing, the decision of the Commission shall be final and conclusive as to all matters adjudicated. Within twenty (20) days from the date that such decision is issued, the claimant may file a Motion for Reconsideration or the Commission may reconsider the matter on its own motion. ( )

**09. Modification of Final Order.** At the request of the claimant or on its own motion the Commission may review and amend any final order or decision, within three (3) years of the date of issue of such order or decision: ( )

**a.** If there is a change in circumstances that affects the claimant's entitlement to benefits; ( )

**b.** To correct a manifest injustice; ( )

c. If the order or award is based upon facts which were misrepresented or that were not fully disclosed; or ( )

d. To correct payments made erroneously. ( )

**013. COMPENSATION.**

**01. Disbursements of Compensation.** Eligible payments shall be made directly to the provider of the service unless the claimant has already paid the provider. If the claimant has already paid the provider, payment shall be made to the claimant. ( )

**02. Allowable Payments for Medical Services.** Pursuant to Section 72-1026, Idaho Code, the Commission adopts a medical fee schedule that is posted on the agency's website and will pay providers for medical services in accordance with said schedule. The conversion factors set out in the medical fee schedule may be adjusted once a year in conjunction with the annual adjustment of the Resource-Based Relative Value Scale (RBRVS), published by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services. ( )

**03. Wage Loss Benefits.** "Wages received at the time of the criminally injurious conduct" shall be the claimant's gross weekly wage; which shall be determined under Section 72-419(1)-(3), Idaho Code, if applicable, and if not, as follows: ( )

**a.** If the Wages were fixed by the hour, and the claimant worked or was scheduled to work the same number of hours each week, the weekly wage shall be the hourly rate times the number of hours that the claimant worked or was scheduled to work each week. ( )

**b.** If the Wages were fixed by the hour and the claimant did not work the same number of hours each week, or if the claimant was paid on a piecework or commission basis, the weekly wage shall be computed by averaging the amounts that the claimant was paid during his last four completed pay periods prior to the criminally injurious conduct and converting that amount to a weekly basis using a method consistent with 72-419(1)-(3); provided that, if the claimant was employed for less than four (4) pay periods before the criminally injurious conduct, the average shall be computed based upon the time period that they worked. ( )

**c.** If none of the above methods are applicable, the weekly wage shall be computed in a manner consistent with the above methods. ( )

**04. Weekly Compensation Benefits If Claimant Employable But Not Employed.** If a claimant qualifies under Section 72-1019(7)(a), Idaho Code, the following provisions apply: ( )

**a.** If at the time of the criminally injurious conduct the claimant was receiving unemployment benefits and as a result of that conduct the claimant becomes ineligible for those benefits, the claimant's weekly benefits under the Crime Victim's Compensation Act shall be the lesser of one hundred fifty dollars (\$150) or their weekly benefit amount under the Employment Security Law. ( )

**b.** If at the time of the criminally injurious conduct the claimant was unemployed, but scheduled to begin employment on a date certain and if they were unable to work for one (1) week as a result of that conduct, weekly benefits under the Crime Victim's Compensation Act shall be the lesser of one hundred fifty dollars (\$150) or two-thirds (2/3) of the amount that they would have earned at their scheduled employment, and those benefits shall be payable beginning on the date that their employment was scheduled to begin. ( )

**c.** If prior to the criminally injurious conduct the claimant was performing necessary household duties which they are disabled from performing as a result of that conduct and it is necessary to employ a person who does not reside in the claimant's house to perform those duties, the claimant shall receive weekly benefits under the Crime Victim's Compensation Act equal to the amount paid to the person so employed, but not exceeding one hundred fifty dollars (\$150) per week. ( )



- d.** In other circumstances, the Commission may award an amount it deems appropriate. ( )
- 05.** Treating Physician. A claimant may choose their own treating physician. ( )
- 06.** Overpayment. The Commission may reduce future payments by an amount equal to the overpayment or request a refund when overpayments are made to either the claimant or the provider. ( )
- 07.** Reimbursement for Transportation Expenses. If the claimant utilizes a private vehicle, reimbursement shall be at the mileage rate allowed by the State Board of Examiners for state employees. Reimbursement is limited to one (1) round trip per day. The claimant shall not be reimbursed for the first fifteen (15) miles of any round trip, nor for traveling any round trip of fifteen (15) miles or less. Such distance shall be calculated by the shortest practical route of travel. The mileage reimbursement amount shall be credited to the medical benefit. ( )
- 08.** Payment of Bills. ( )
- a.** Bills for treatment and sexual assault forensic examinations must be submitted within three (3) years from the date of treatment or the date of eligibility, whichever is later, to be compensable. The time for submission may be extended upon Commission approval. ( )
- b.** For the purpose of dispersing payment, the claimant may be required to provide certain documentation, including a W-9 form. ( )
- 09.** Right to Recover. ( )
- a.** The Commission's right to recover its full economic loss under a restitution order as a victim under Section 19-5304, Idaho Code, is independent from any other legal remedy it may have, including its statutory right to subrogation under Section 72-1023, Idaho Code, and is not barred by civil settlements entered into by other victims. ( )
- b.** The Commission may reduce or waive its subrogated interest in a settlement or civil action. ( )
- 0134.** -- 999. (RESERVED)

## IDAPA 18 – DEPARTMENT OF INSURANCE

### 18.01.02 – SCHEDULE OF FEES, LICENSES, AND MISCELLANEOUS CHARGES

#### DOCKET NO. 18-0102-2301 (ZBR CHAPTER REWRITE, FEE RULE)

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211 and 41-401, Idaho Code.

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

<b>Wednesday, September 27, 2023 3:00 p.m. to 4:30 p.m. (MT)</b>
<i>In-person participation is available at:</i> <b>Department of Insurance 700 W. State St. 3rd Floor Boise, ID 83702</b>
<i>Web meeting link:</i> <a href="https://www.microsoft.com/microsoft-teams/join-a-meeting">https://www.microsoft.com/microsoft-teams/join-a-meeting</a> <i>Meeting ID: 297 636 144 490 Meeting Password: 345BQf or by phone: +1 208-985-2810,,826046050#</i>

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

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

The purpose of this rule provides amounts to be collected for insurance fees, licenses, and miscellaneous charges. This rulemaking is consistent with the Governor's [Executive Order 2020-01: Zero-Based Regulation](#). The substantive change is to reduce one registration fee and to add a registration fee for Pharmacy Benefit Managers, which started registering with the Department in 2021. Other proposed changes are to simplify, clarify, and reduce.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: One existing registration fee is reduced from \$100 to \$40, and one registration fee of \$300 is added for Pharmacy Benefit Managers, which started registering with the Department in 2021.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: None.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 7, 2023 Idaho Administrative Bulletin, [Vol. 23-06, pages 56-57](#), under Docket No. 18-ZBRR-2301.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Weston Trexler, (208) 334-4214, [weston.trexler@doi.idaho.gov](mailto:weston.trexler@doi.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2023.

DATED this 3rd day of August, 2023.

Dean L. Cameron, Director  
Idaho Department of Insurance  
700 W. State Street, 3rd Floor  
P.O. Box 83720  
Boise, ID, 83720-0043  
Phone: (208) 334-4250  
Fax: (208) 334-4398

**THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 18-0102-2301**  
**(ZBR Chapter Rewrite)**

**18.01.02 – SCHEDULE OF FEES, LICENSES, AND MISCELLANEOUS CHARGES**

**000. LEGAL AUTHORITY.**

~~Title 41, Chapters 2 and 4, Idaho Code, Idaho Code~~ Sections 41-211 and 41-401, Idaho Code. (3-23-22)(\_\_\_\_)

**001. SCOPE.**

~~The purpose of this rule is to~~ provides for the amounts to be collected for fees, licenses and miscellaneous charges. (3-23-22)(\_\_\_\_)

~~002. -- 010.~~ (RESERVED)

~~011. FEES PAYABLE IN ADVANCE.~~

~~The director will collect in advance fees, licenses, and miscellaneous charges as outlined in this rule.~~ (3-23-22)

~~012. -- 019.~~ (RESERVED)

**020. INSURER OR OTHER ENTITY ANNUAL CONTINUATION FEES.**

**01. Annual Continuation Fee.** No later than March 1 each year, All each insurers ~~and or~~ other entities listed under (set forth in Section 020)2, licensed, listed, or approved to do business in ~~the state of~~ Idaho will pay an annual continuation fee ("ACF"). The ACF covers March through the following February. (3-23-22)(\_\_\_\_)

~~a. The annual continuation fee is due on March 1st each year and is payment of the insurer's fees due through the following February.~~ (3-23-22)

~~ba. The annual continuation fee ACF is charged at the time the insurer or other entity applies for admission to do business in the state of Idaho. If the application is approved, the fee paid will cover the insurer's fees through the following February.~~ (3-23-22)(\_\_\_\_)

**b.** The ACF is the reinstatement fee referenced in Section 41-324(3), Idaho Code. ( )

**c.** The ACF provides for but is not limited to: renewal of the certificate of authority or license, or annual registration; all filings required of insurers or other entities not expressly subject to a fee; agent appointment and renewals; arson, fire, and fraud investigation costs or examination expenses, notwithstanding Subsection 020.01.d. ( )

**d.** The ACF does not provide for, or will not exempt the insurer or entity from: fees listed under Sections 030 and 040; penalties or fines levied by or payable to the Department; any express authority in Idaho Code that allows charges or expenses may be paid or reimbursed to the Department, such as for investigation, examination, engaging experts and consultants, or Attorney's costs incurred by the Department. ( )

**02.** **Failure to Pay Fee.** Failure to pay the ACF by March 1 each year will result in the expiration of the insurer's or other entity's authority to do business in Idaho pursuant to Section 41-324, Idaho Code. ( )

**021. INSURER FEE.**

**02.** **Fee for Insurers.** For all insurance companies receiving ~~An insurer with~~ a certificate of authority pursuant to Title 41, Chapter 3, Idaho Code, ~~the will pay the annual continuation fee ACF is~~ as follows: (3-23-22)( )

**#01.** **Surplus is Less Than 10 Million Dollars (\$10,000,000).** If ~~insurer's~~ policy holders' surplus at the preceding December 31 is less than ten million dollars (\$10,000,000) - One thousand dollars (\$1,000). (3-23-22)( )

**#02.** **Surplus is 10 Million Dollars (\$10,000,000) or More.** If ~~insurer's~~ policy holders' surplus at the preceding December 31 is ten million (\$10,000,000) or more, but less than one hundred million (\$100,000,000) -- Two thousand five hundred dollars (\$2,500). (3-23-22)( )

**e03.** **Surplus is One Hundred Million Dollars (\$100,000,000) or More.** If ~~insurer's~~ policy holders' surplus at the preceding December 31 is one hundred million (\$100,000,000) or greater - Four thousand five hundred dollars (\$4,500). (3-23-22)( )

**022. OTHER ENTITY FEE.**

**03.** **Fees of Other Entities.** The following entities will be assessed an ~~annual continuation fee ACF of:~~ (3-23-22)( )

**#01.** Five hundred dollars (\$500); (3-23-22)( )

**ia.** All reinsurers, ~~listed pursuant to~~ under Section 41-515, Idaho Code. (3-23-22)( )

**iiib.** Authorized surplus line insurers. ( )

**iiic.** County mutual insurers. ( )

**ivd.** Fraternal benefit societies. ( )

**v e.** Hospital and/or professional service corporations. ( )

**vif.** Self-funded health care plans. ( )

**viiig.** Domestic Risk retention groups. ( )

**viiih.** Petroleum clean water trusts. ( )

- ~~ix.i.~~ Rating organizations. ( )
- ~~x.j.~~ Advisory organizations. ( )
- ~~b02.~~ ~~One hundred~~ ~~Forty~~ dollars (~~\$100~~40): Purchasing groups. (3-23-22)( )
- ~~04.~~ ~~Fees Provide.~~ The annual continuation fee includes, but is not limited to, the following: (3-23-22)
- ~~a.~~ Certificate of authority renewal, license renewal, and annual registration. (3-23-22)
- ~~b.~~ Arson, fire and fraud investigation costs. (3-23-22)
- ~~c.~~ Annual statement filing. (3-23-22)
- ~~d.~~ Agent appointment and renewal of appointment. (3-23-22)
- ~~e.~~ Filings under Title 41, Chapter 38, Idaho Code, Acquisitions of Control and Insurance Holding Company Systems. (3-23-22)
- ~~f.~~ Filing of amendments to Articles of Incorporation. (3-23-22)
- ~~g.~~ Filing of amendments to Bylaws. (3-23-22)
- ~~h.~~ Amendments to Certificate of Authority. (3-23-22)
- ~~i.~~ Filing of notice of significant transactions pursuant to Section 41-345, Idaho Code. (3-23-22)
- ~~j.~~ Quarterly statement filing. (3-23-22)
- ~~k.~~ Examination expenses. (3-23-22)
- ~~05.~~ ~~Not Provided in Fees.~~ Payment of the annual continuation fee will not exempt the insurer or entity from the following: (3-23-22)
- ~~a.~~ Fees for application for producer license. (3-23-22)
- ~~b.~~ Costs incurred by the Department for investigation of an applicant for producer license. (3-23-22)
- ~~c.~~ Attorney's fees and costs incurred by the Department when allowed pursuant to Idaho Code. (3-23-22)
- ~~d.~~ Costs incurred for experts and consultants when allowed by Idaho Code. (3-23-22)
- ~~e.~~ Penalties or fines levied by or payable to the Department of Insurance. (3-23-22)
- ~~f.~~ All fees set forth under Section 040. (3-23-22)
- ~~06.~~ ~~Failure to Pay Fee.~~ Failure to pay the annual continuation fee on or before March 1st each year will result in the expiration of the insurer's or entity's authority to do business in the state of Idaho pursuant to Section 41-324, Idaho Code. (3-23-22)
- ~~07.~~ ~~Reinstatement Fee.~~ The reinstatement fee referenced in Section 41-324(3), Idaho Code, is the amount referenced above for the insurer or entity continuation fee. (3-23-22)
- ~~024~~3. -- 029. (RESERVED)
030. PRODUCER ~~LICENSE AND MISCELLANEOUS LICENSING FEES~~ ~~RELATED FEES.~~

01. **Original License Application.** The following fees ~~are~~ is due at the time of original ~~and need to be paid with the filing~~ application for the following original license types: (3-23-22)(    )

- a. Third party Administrators -- three hundred dollars (\$300). (3-23-22)(    )
- b. Producers, including limited line producers -- eighty dollars (\$80). (3-23-22)(    )
- c. Designation as a mManaging general agent -- eighty dollars (\$80). (3-23-22)(    )
- d. Adjusters, independent and or public adjusters -- eighty dollars (\$80). (3-23-22)(    )
- e. Reinsurance intermediary -- eighty dollars (\$80). ( )
- f. Surplus line brokers -- eighty dollars (\$80). ( )
- g. Life settlement providers -- five hundred dollars (\$500). ( )
- h. Life settlement brokers -- three hundred dollars (\$300). ( )
- i. Independent review organization -- five hundred dollars (\$500). ( )
- j. Vendor of portable electronics insurance, a separate type of limited lines producer: (3-23-22)(    )
  - i. ~~A vendor of portable electronic insurance who is engaged in portable electronic transactions at~~ More than ten (10) locations in the state of Idaho -- one thousand dollars (\$1,000). (3-23-22)(    )
  - ii. ~~A vendor of portable electronic insurance who is engaged in portable electronic transactions at~~ Ten (10) or fewer locations in the state of Idaho -- one hundred dollars (\$100). (3-23-22)(    )

02. **Examination Fees.** Each time a producer or adjuster's licensing examination is taken ~~for licensing~~ under per Title 41, Chapters 10 and 11, Idaho Code, the applicant may pay a fee to a third-party testing vendor in the amount established by contract between the ~~e~~D department and the vendor. (3-23-22)(    )

03. **Fingerprinting-Processing.** ~~Processing~~ Fingerprintings (as applicable) -- not to exceed eighty dollars (\$80). (3-23-22)(    )

04. **License Renewal.** The following renewal fees are due owed either annually or biannually and due as indicated in the Department's renewal form ~~and need to be paid for each license to renew or continue~~ for each of the following license types: (3-23-22)(    )

- a. Third Party Administrators (biennial) -- eighty dollars (\$80). ( )
- b. Producers, including limited lines producers (biennial) -- eighty dollars (\$80), or sixty dollars (\$60) if renewed electronically. ( )
- c. Managing general agent (annual) -- eighty dollars (\$80). ( )
- d. Adjusters, independent or public (biennial) -- eighty dollars (\$80), or sixty dollars (\$60) if renewed electronically. ( )
- e. Surplus line brokers (biennial) -- eighty dollars (\$80), or sixty dollars (\$60) if renewed electronically. ( )
- f. Life settlement providers (biennial) -- three hundred dollars (\$300). ( )

- ~~g. Life settlement brokers (biennial) -- one hundred dollars (\$100). ( )~~
- ~~h. Independent review organization (biennial) -- five hundred dollars (\$500). ( )~~
- ~~i. Vendor of portable electronics insurance, a separate type of limited lines producer with (biennial): ( )~~
- ~~i. More than ten (10) locations in the state of Idaho -- five hundred dollars (\$500). ( )~~
- ~~ii. Ten (10) or fewer locations in the state of Idaho -- one hundred dollars (\$100). ( )~~
- ~~a. Adjusters, public adjusters, and producers (biennial) -- eighty dollars (\$80), or sixty dollars (\$60) if renewed electronically. (3-23-22)~~
- ~~i. A vendor of portable electronic insurance who is engaged in portable electronic transactions at more than ten (10) locations in the state of Idaho -- five hundred dollars (\$500). (3-23-22)~~
- ~~ii. A vendor of portable electronic insurance who is engaged in portable electronic transactions at ten (10) or fewer locations in the state of Idaho -- one hundred dollars (\$100). (3-23-22)~~
- ~~b. Redesignation as managing general agent (annual) -- eighty dollars (\$80). (3-23-22)~~
- ~~e. Administrators (biennial) -- eighty dollars (\$80). (3-23-22)~~
- ~~i. Renewal form is filed on or before December 31. (3-23-22)~~
- ~~ii. Any renewal form postmarked after December 31 includes a penalty in an amount equal to the renewal fee. (3-23-22)~~
- ~~iii. A renewal form postmarked after January 31 needs to be submitted as a new application with supporting documents and the full application fee. (3-23-22)~~
- ~~d. Surplus line brokers (biennial) -- eighty dollars (\$80), or sixty dollars (\$60) if renewed electronically. (3-23-22)~~
- ~~e. Life settlement providers (biennial) -- three hundred dollars (\$300). (3-23-22)~~
- ~~f. Life settlement brokers (biennial) -- eighty dollars (\$80). (3-23-22)~~
- ~~g. Independent review organization (biennial) -- three hundred dollars (\$300). (3-23-22)~~

031. -- 039. (RESERVED)

040. MISCELLANEOUS ~~FEES~~ **CHARGES.**

- ~~01. Certified Copy. Certified copy of certificate of authority, license or registration - Fifty dollars (\$50). ( )~~
- ~~02. Certificate Under Seal. Director's certificate under seal (except for those under Subsection 040.01 of this rule) -- Twenty dollars (\$20). (3-23-22) ( )~~
- ~~03. Documents Filed. For each copy of a document filed in the DOI, a reasonable cost as fixed by the director. For rate and form filings not submitted electronically through the national System for Electronic Rate and Form Filing (SERFF) -- Twenty dollars (\$20) for each rate or form filed in excess of ten (10) per calendar year. (3-23-22)~~
- 043. Insurer Service of Process.** For receiving and forwarding copy a of summons or other process

served upon the director as process agent of an insurer -- Thirty dollars (\$30).

~~(3-23-22)~~( )

**054. Agent Service of Process.** For receiving and forwarding a copy of summons or other process served upon the director as process agent of a nonresident producer or other person for which the director is authorized to serve as statutory agent for service of process -- Thirty dollars (\$30).

~~(3-23-22)~~( )

**065. Continuing Education.** Filing continuing education applications for approval and certification of subjects of courses (each application) -- Twenty-five dollars (\$25).

( )

**041. -- 049. (RESERVED)**

**050. REFUNDS.**

All fees, ~~licenses~~, and miscellaneous charges are non-refundable except as noted.

~~(3-23-22)~~( )

**051. OVERPAYMENTS.**

Overpayments of published fees will be returned only when such overpayments exceed twenty dollars (\$20), or upon request of the payor.

( )

**052. -- 999. (RESERVED)**



**IDAPA 18 – DEPARTMENT OF INSURANCE**  
**18.04.04 – THE MANAGED CARE REFORM ACT RULE**  
**DOCKET NO. 18-0404-2301 (ZBR CHAPTER REWRITE)**  
**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Title 41, Chapters 2 and 39, Idaho Code.

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

<b>Wednesday, September 27, 2023</b> <b>3:00 p.m. to 4:30 p.m. (MT)</b>
<i>In-person participation is available at:</i> <b>Department of Insurance</b> <b>700 W. State St. 3rd Floor</b> <b>Boise, ID 83702</b>
<i>Web meeting link:</i> <a href="https://www.microsoft.com/microsoft-teams/join-a-meeting">https://www.microsoft.com/microsoft-teams/join-a-meeting</a> <i>Meeting ID: 297 636 144 490</i> <i>Meeting Password: 345BQf</i> <i>or by phone: +1 208-985-2810,,826046050#</i>

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

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

The purpose of this rule implements the Managed Care Reform Act by defining and establishing operating procedures. This rulemaking is consistent with the Governor's [Executive Order 2020-01: Zero-Based Regulation](#). The proposed changes are to simplify, clarify, and reduce.

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

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: None.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 7, 2023 Idaho Administrative Bulletin, [Vol. 23-06, pages 56-57](#), under Docket No. 18-ZBRR-2301.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Weston Trexler, (208) 334-4214, [weston.trexler@doi.idaho.gov](mailto:weston.trexler@doi.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2023.

DATED this 3rd day of August, 2023.

Dean L. Cameron, Director  
Idaho Department of Insurance  
700 W. State Street, 3rd Floor  
P.O. Box 83720  
Boise, ID, 83720-0043  
Phone: (208) 334-4250  
Fax: (208) 334-4398

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0404-2301**  
**(ZBR Chapter Rewrite)**

**18.04.04 – THE MANAGED CARE REFORM ACT RULE**

**000. LEGAL AUTHORITY.**

Title 41, Chapters 2 and 39, Idaho Code.

~~(3-31-22)~~( )

**001. ~~TITLE AND SCOPE.~~**

~~This rule defines procedures to be followed in establishing and operating a Managed Care Organization.~~

( )

~~01. Title. IDAPA 18.04.04, “The Managed Care Reform Act Rule.”~~

~~(3-31-22)~~

~~02. Scope. The Act and this chapter define procedures to be followed in establishing and operating a Managed Care Organization.~~

~~(3-31-22)~~

**002. -- 009. (RESERVED)**

**010. DEFINITIONS.**

**01. Balance Billing.** The practice whereby a provider bills an individual covered under the benefit plan for the difference between the amount the provider normally charges for a service and the amount the plan, policy, or contract recognizes as the allowable charge or negotiated price for the service delivered. ( )

**02. MCO.** Managed Care Organizations is abbreviated to MCO in this rule. ( )

**03. MCO Provider.** MCO provider means any provider owned, managed, employed by, or under contract with an MCO to provide health care services to MCO members. An MCO provider includes a physician, hospital, or other person licensed or authorized to furnish health care services. ( )

**011. ~~APPLICATION FOR CERTIFICATE OF AUTHORITY~~ CAPITAL SURPLUS AND DEPOSIT REQUIREMENTS.**

~~01. Certificate of Authority. Any person offering a managed care plan on a predetermined and~~

~~prepaid basis is transacting the business of insurance and needs to be authorized under a Certificate of Authority issued by the Director of Insurance. (3-31-22)~~

~~02. **Application Requirements.** The application for a Certificate of Authority will include the affidavits, statements, and other information as enumerated in Idaho Code, Sections 41-319, 41-3904, 41-3905, and 41-3906. After receiving these completed documents, the Director has the authority to request any supplemental information before final approval or disapproval is given. (3-31-22)~~

~~03. **Capital Surplus and Deposit Requirements.** (3-31-22)~~

~~a01. **Amount.** The Director has established ~~t~~The following minimum capital fund requirements apply, as per Section 41-3905(8), Idaho Code, based on the number of enrolled members:~~

Enrolled Members	Capital Funds
0-100	\$200,000
101-300	\$300,000
301-500	\$400,000
501-700	\$500,000
701-1,000	\$1,000,000
1,001-2,000	\$1,500,000
2,001-3,000	\$2,000,000

~~(3-31-22)( )~~

~~b02. **Time.** Within the following time periods after the organization becomes subject to the Act, if in no event will the organization's capital funds be less than the following:~~

One year <del>after the organization becomes subject to the Act</del>	\$1,000,000
Two years <del>after the date the organization becomes subject to the Act</del>	\$1,500,000
Three years <del>after the date the organization becomes subject to the Act</del>	\$2,000,000

~~(3-31-22)( )~~

~~e03. **Adjustments.** Immediately upon becoming subject to the Act, the MCO's minimum statutory deposit requirements is calculated as fifty percent (50%) of the amount of the organization's capital funds as calculated above up to a maximum of one million dollars (\$1,000,000), but not less than two hundred thousand dollars (\$200,000). The amount of the minimum deposit so held by the Department is adjusted based on the organization's December 31<sup>st</sup> and June 30<sup>th</sup> financial statement filings each year. In no event will the minimum prescribed statutory deposit amount be reduced. Upon notification by the Department of the necessary filing a financial statement indicating an increase in the deposit amount, the organization will have no more than thirty (30) days to come into compliance with the prescribed amount. Failure to increase the deposit as prescribed will may subject the organization to suspension or revocation of its certificate of authority pursuant to Section 41-326, Idaho Code. (3-31-22)( )~~

## 012. SOLICITATION PRIOR TO ISSUANCE OF CERTIFICATE OF AUTHORITY.

~~01. **Permission for Solicitation Requisite.** In accordance with Section 41-3904, Idaho Code, a proposed MCO, after filing its application for a Certificate of Authority, may request permission from the Director to inform potential enrollees concerning its proposed managed care services. (3-31-22)~~

~~02. **Solicitation Materials.** Before contacting potential enrollees or subscribers, the proposed MCO will submit its request for permission to the Director in writing for approval, with copies of brochures, advertising or solicitation materials, sales talks or any other procedures or methods to be used. (3-31-22)( )~~

~~03. **Methods of Solicitation.** Advertising and solicitation materials used by a proposed MCO need to meet the following minimum requirements:~~ (3-31-22)

~~a. The prospective enrollee will clearly be advised that:~~ (3-31-22)

~~i. The proposed MCO is not as yet authorized to offer health care services in this state;~~ (3-31-22)

~~ii. Coverage for health care services is not being provided at the time of the solicitation;~~ (3-31-22)

~~iii. The solicitation is not a guarantee that any services will be provided at a future date.~~ (3-31-22)

~~b. The format and content of any material offered will conform with the MCO Act. Such material will contain but not be limited to the following information:~~ (3-31-22)

~~i. Complete description of the proposed MCO services and other benefits to which the enrollee would be entitled;~~ (3-31-22)

~~ii. The location of all facilities, the hours of operation, and the services which would be provided in each facility;~~ (3-31-22)

~~iii. The predetermined periodic rate of payment for the proposed services;~~ (3-31-22)

~~iv. All exclusions and limitations on the proposed services, including any copayment feature, and all restrictions relating to pre-existing conditions.~~ (3-31-22)

~~e. No person will solicit enrollment or inform prospective enrollees concerning proposed MCO services unless compensated solely as a salaried employee of the proposed MCO.~~ (3-31-22)

**013. ANNUAL DISCLOSURE, FILING WITH DIRECTOR STATEMENT.**

The annual disclosure material prescribed to be filed with the Director pursuant to Section 41-3914, Idaho Code, is filed with the reports to the Director on or before March 1 each year. The MCO will file an annual statement in accordance with Section 41-335, Idaho Code. (3-31-22)(    )

**014. ANNUAL AUDIT REPORT TO THE DIRECTOR.**

In accordance with Sections 41-3910 and 41-335, Idaho Code, every managed care organization will annually on or before the first day of March, file with the Director a full and true statement of its financial condition, transactions and affairs as of the preceding December 31. Unless otherwise prescribed by the Director, the statement is to be prepared in accordance with the annual statement instructions and the accounting practices and procedures manual adopted by the National Association of Insurance Commissioners (NAIC) and is to be submitted on the NAIC annual convention blank form. The managed care organization The MCO will also file its annual audited financial report described in Section 41-3910, Idaho Code, in accordance with IDAPA 18.07.04, "Annual Audited Financial Reports." It will include the annual disclosure material described in Section 41-3914, Idaho Code, and the grievance report described in Section 41-3918, Idaho Code. (3-31-22)(    )

**015. PERSONNEL AND FACILITIES LISTING.**

**01. Current Listing.** The MCO will ~~at all times~~ always keep a current list of all personnel, providers and facilities employed, retained or under contract to furnish health care services to enrollees. This list is to be made available to the Director upon request. (3-31-22)(    )

**02. Allowable Expense -- No Balance Billing.** No MCO provider or other provider accepting a referral from an MCO, who treats or provides services to an individual covered by the MCO, may charge to or collect from any member or other beneficiary any amount in excess of that amount of compensation determined or allowed for a particular service by the MCO or by the administrator for the MCO. Nothing in this section prevents the collection of any copayments, coinsurance, or deductibles allowed for in the plan design. ( )

**03. Procedures for Basic Care and Referrals.** The MCO will provide basic health care to enrollees through an organized system of health care providers. In plans in which referrals to specialty physicians and ancillary services are prescribed, the MCO provider or the MCO will initiate the referrals. The MCO will inform its providers of their responsibility to provide written referrals and any specific procedures that need to be followed in providing referrals, including prohibition of balance billing. ( )

**04. Health Care Services to Be Accessible.** The MCO, either directly or through its organized system of health care providers, will arrange for covered health care services, including referrals to providers within the organized system of health care providers and noncontracting providers, to be accessible to enrollees on a timely basis in accordance with medically appropriate guidelines consistent with generally accepted practice parameters. ( )

**05. Out of Network Services.** In the case of provider care which is delivered outside of the organized system of health care providers or defined referral system, the MCO will alert those covered under health benefit plans to the fact that providers which are not MCO providers, or have not accepted written referrals, may balance bill the customer for amounts above the MCO's maximum allowance. Consumers should be encouraged to discuss the issue with their providers ( )

**016. -- 999. (RESERVED)**

**IDAPA 18 – DEPARTMENT OF INSURANCE**

**18.04.08 – INDIVIDUAL AND GROUP SUPPLEMENTARY DISABILITY INSURANCE  
MINIMUM STANDARDS RULE**

**DOCKET NO. 18-0408-2301 (ZBR CHAPTER REWRITE)**

**NOTICE OF RULEMAKING – PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Title 41, Chapters 2 and 42, Idaho Code.

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

<b>Wednesday, September 27, 2023 3:00 p.m. to 4:30 p.m. (MT)</b>
<i>In-person participation is available at:</i> <b>Department of Insurance 700 W. State St. 3rd Floor Boise, ID 83702</b>
<i>Web meeting link:</i> <a href="https://www.microsoft.com/microsoft-teams/join-a-meeting">https://www.microsoft.com/microsoft-teams/join-a-meeting</a> <i>Meeting ID: 297 636 144 490</i> <i>Meeting Password: 345BQf</i> <i>or by phone: +1 208-985-2810,,826046050#</i>

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

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

The purpose of this chapter is to implement Title 41, Chapters 21, 22, 34, and 42, Idaho Code, to standardize and simplify the terms and coverages of individual and group supplementary disability insurance. This rulemaking is consistent with the Governor’s [Executive Order 2020-01: Zero-Based Regulation](#). The proposed changes are primarily to simplify, clarify, and reduce. Additional changes update language and broaden the allowable benefit period for disability insurance protection coverage.

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

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: None.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 7, 2023 Idaho Administrative Bulletin, [Vol. 23-06, pages 56-57](#), under Docket No. 18-ZBRR-2301.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: This rule incorporates by reference the Outlines of Coverage and notices from the April 1999 version of the National Association of Insurance Commissioners (NAIC) Model Regulation to Implement the Accident and Sickness Insurance Minimum Standards Act. Copies of the standards and materials can be found at <https://content.naic.org/sites/default/files/MO171.pdf>. Due to the length of these materials, the Department finds it is more expedient to incorporate the materials by reference.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Weston Trexler, (208) 334-4214, [weston.trexler@doi.idaho.gov](mailto:weston.trexler@doi.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2023.

DATED this 3rd day of August, 2023.

Dean L. Cameron, Director  
Idaho Department of Insurance  
700 W. State Street, 3rd Floor  
P.O. Box 83720  
Boise, ID, 83720-0043  
Phone: (208) 334-4250  
Fax: (208) 334-4398

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0408-2301**  
**(ZBR Chapter Rewrite)**

**18.04.08 – INDIVIDUAL AND GROUP SUPPLEMENTARY DISABILITY INSURANCE**  
**MINIMUM STANDARDS RULE**

**000. LEGAL AUTHORITY.**

Title 41, Chapters 2 and 42, Idaho Code.

( )

**001. ~~TITLE AND SCOPE.~~**

~~**01. Title.** IDAPA 18.04.08, “Individual and Group Supplementary Disability Insurance Minimum Standards Rule.” (3-31-22)~~

~~**02. Purpose.** The purpose of this chapter is to implement Title 41, Chapters 21, 22, 34, and 42, Idaho Code, to standardize and simplify the terms and coverages of individual and group supplementary disability insurance, to facilitate public understanding and comparison of coverage, to eliminate provisions that may be misleading or confusing in connection with the purchase of the coverages or with the settlement of claims, and to provide for full disclosure in the marketing and sale of such insurance. (3-31-22)~~

~~**03. Applicability and Scope.** This chapter applies to all individual and group policies and certificates providing hospital confinement indemnity, disability income protection, accident only, specified disease, specified accident, or limited benefit health coverage, referred to collectively in this chapter as “supplementary disability insurance,” offered, delivered, issued for delivery, or renewed in this state or to a resident of this state, unless specifically exempted. It (3-31-22)~~

~~**a.** This chapter applies to dental plans and vision plans only as specified, and it applies. (3-31-22)~~

~~**b.** This chapter applies to group supplementary plans whether issued to supplement a group health benefit plan, or as a supplementary plan that pays benefits regardless of other coverage. (3-31-22)( )~~

- ~~e. This chapter does not apply to: (3-31-22)~~
- ~~i. Individual policies or contracts issued pursuant to a conversion privilege under a group policy or certificate. (3-31-22)~~
- ~~ii. Policies issued to employees or members as additions to franchise plans. (3-31-22)~~
- ~~iii. Medicare supplement policies subject to Title 41, Chapter 44, Idaho Code, Medicare Supplement Insurance Minimum Standards. (3-31-22)~~
- ~~iv. Long term care insurance policies subject to Title 41, Chapter 46, Idaho Code, Long Term Care Insurance. (3-31-22)~~
- ~~v. Civilian Health and Medical Program of the Uniformed Services, Title 10, Chapter 55, of the United States Code, (CHAMPUS) supplement insurance policies. (3-31-22)~~
- ~~vi. Individual or group major medical expense coverage, including short term coverage. (3-31-22)~~

**002. INCORPORATION BY REFERENCE.**

~~01. Copies. May be obtained from the Idaho Department of Insurance. (3-31-22)~~

~~02. Documents Incorporated by Reference.~~ The following Outlines of Coverage and notices are incorporated by reference from the April 1999 version of the NAIC Model Regulation to Implement the Accident and Sickness Insurance Minimum Standards Act [available on the NAIC website https://content.naic.org/sites/default/files/MO171.pdf](https://content.naic.org/sites/default/files/MO171.pdf): ~~(3-31-22)( )~~

- ~~a01. Hospital Confinement Indemnity Coverage. ( )~~
- ~~b02. Disability Income Protection Coverage. ( )~~
- ~~e03. Accident Only Coverage. ( )~~
- ~~d04. Specified Disease. ( )~~
- ~~e05. Specified Accident. ( )~~
- ~~f06. Limited Benefit Health Coverage. ( )~~
- ~~g07. Dental Plans. ( )~~
- ~~h08. Vision Plans. ( )~~
- ~~i09. Notice to Applicant Regarding Replacement of Accident and Sickness Insurance (direct sales). ( )~~
- ~~j10. Notice to Applicant Regarding Placement of Accident and Sickness Insurance (other than direct sales). ( )~~

**003. -- 009. (RESERVED)**

**010. DEFINITIONS.**

**01. Accident Only Coverage.** “Accident Only Coverage” means a policy or certificate that provides coverage, singly or in combination, for death, dismemberment, disability or hospital and medical care caused by an accident, and does not provide coverage for non-accidents. ( )



**02. Dental Coverage.** “Dental Coverage” means a policy or certificate that primarily provides benefits for dental expenses. ( )

**03. Disability Income Protection Coverage.** “Disability Income Protection Coverage” means a policy or certificate that provides for periodic payments, weekly or monthly, for a specified period during the continuance of disability resulting from either sickness or injury or a combination of both. ( )

**04. Hospital Confinement Indemnity Coverage.** “Hospital Confinement Indemnity Coverage” means a policy or certificate of accident and sickness insurance that provides daily benefits for hospital confinement on an indemnity basis, meaning the benefit is a fixed dollar amount per day of confinement, regardless of the expenses incurred. ( )

**05. Limited Benefit Health Coverage.** “Limited Benefit Health Coverage” means a policy or certificate that provides benefits that are less than the minimum standards under Sections 035 through 039 of this chapter. ( )

**06. Major Medical Expense Coverage.** “Major Medical Expense Coverage” means a policy of accident and sickness insurance that provides hospital, medical and surgical expense coverage. ( )

**07. Specified Accident Coverage.** “Specified Accident Coverage” means a policy or certificate that provides coverage for a specifically identified kind of accident (or accidents) for each person insured under the coverage for accidental death or accidental death and dismemberment combined. ( )

**08. Specified Disease Coverage.** “Specified Disease Coverage” means a policy or certificate that pays benefits only after the diagnosis of a specifically named disease or diseases. ( )

**09. Vision Coverage.** “Vision Coverage” means a policy or certificate that primarily provides benefits for vision expenses. ( )

**011. POLICY DEFINITIONS AND TERMS.**

Except as provided in this chapter, an insurance policy or certificate to which this chapter applies will not include definitions more restrictive than the following: ( )

**01. Accident.** “Accident,” “accidental injury,” and “accidental” is to employ “result” language and does not include words that establish an accidental means test or use words such as “external, violent, visible wounds” or similar words of description or characterization. ( )

**a.** “Injury” or “injuries” means accidental bodily injury ~~sustained by the insured person that is the direct cause of the condition for which benefits are provided, independent of disease or bodily infirmity or any other cause, and that which~~ occurs while the ~~insurance~~ coverage is in force. (3-31-22)( )

**b.** It may exclude injuries for which benefits are provided: ~~under workers’ compensation, employers’ liability or similar law; or under a motor vehicle no-fault plan, unless not allowed by law; or injuries occurring while the insured person is engaged in any activity pertaining to a trade, business, employment or occupation for wage or profit.~~ (3-31-22)( )

**i.** ~~Under workers’ compensation, employers’ liability, or similar law; or~~ (3-31-22)

**ii.** ~~Under a motor vehicle no fault plan, unless the motor vehicle no fault plan provides for coordination of benefits; or~~ (3-31-22)

**iii.** ~~For injuries occurring while the insured person is engaged in any activity pertaining to a trade, business, employment or occupation for wage or profit.~~ (3-31-22)

**02. Convalescent Nursing Home.** “Convalescent nursing home,” “extended care facility,” “assisted living facility”, or “skilled nursing facility” is to be defined in relation to its status, facility and available services.

(3-31-22)( )

- a. Such home or facility is to: ( )
  - i. Be operated pursuant to law; ( )
  - ii. Be ~~approved for payment of Medicare benefits or be~~ qualified to receive approval for payment of Medicare ~~or medicaid~~ benefits, if so requested; (3-31-22)( )
  - iii. ~~Be primarily engaged in providing~~Provide, in addition to room and board accommodations, skilled nursing care under the supervision of a duly licensed physician; (3-31-22)( )
  - iv. Provide continuous twenty-four (24) hours per day nursing service by or under the supervision of a registered nurse; and ( )
  - v. Maintain a daily medical record of each patient. ( )
- b. The definition of the home or facility may ~~provide that the term will not be inclusive of; exclude a home, facility or part of a home or facility used primarily; for rest, for the aged, for individuals with a substance use disorder or a mental disease or disorder, or for custodial or educational care.~~ (3-31-22)( )
  - i. ~~A home, facility or part of a home or facility used primarily for rest;~~ (3-31-22)
  - ii. ~~A home or facility for the aged or for the care of drug addicts or alcoholics; or~~ (3-31-22)
  - iii. ~~A home or facility primarily used for the care and treatment of mental diseases or disorders, or for custodial or educational care.~~ (3-31-22)

03. **Home Health Care Agency.** “Home health care agency” means an agency approved under Medicare, or that is licensed to provide home health care under applicable state law, or that ~~meets all of the following requirements:~~ (3-31-22)( )

- a. ~~It is~~Is primarily engaged in providing home health care services; (3-31-22)( )
- b. ~~Its Has~~Has policies ~~are~~ established by a group of professional personnel (including at least one (1) physician and one (1) registered nurse); (3-31-22)( )
- c. ~~A Has a~~Has a physician or a registered nurse ~~provides supervision of~~ supervising the home health care services; (3-31-22)( )
- d. ~~It m~~Maintains clinical records on all patients; and (3-31-22)( )
- e. ~~It h~~Has a full-time administrator. (3-31-22)( )

04. **Hospice.** “Hospice” means a facility licensed, certified or registered in accordance with state law that provides a formal program of care that is: ( )

- a. For terminally ill patients whose life expectancy is less than six (6) months; ( )
- b. Provided on an inpatient or outpatient basis; and ( )
- c. Directed by a physician. ( )

05. **Hospital.** “Hospital” is to be defined in relation to its status, facilities and available services or to reflect its accreditation by the Joint Commission ~~on Accreditation of Healthcare Organizations, Accreditation of Rehabilitation Facilities or by Medicare.~~ (3-31-22)( )

- a. The hospital may: ( )
- i. Be an institution licensed to operate as a hospital pursuant to law; ( )
- ii. Be primarily and continuously engaged in providing or operating, either on its premises or in facilities available to the hospital on a prearranged basis and under the supervision of a staff of licensed physicians, medical, diagnostic and major surgical facilities for the medical care and treatment of sick or injured persons on an in-patient basis for which a charge is made; and ( )
- iii. Provide twenty-four (24) hour nursing service by or under the supervision of registered nurses. ( )
- b. The term ~~will not be inclusive of the following, unless the facility otherwise meets the qualifications set forth at Paragraph 011.05.a. of this Section~~ may exclude: (3-31-22)( )
- i. Convalescent homes or, convalescent, rest, or nursing facilities; ( )
- ii. Facilities affording primarily custodial, educational, or rehabilitory care; ( )
- iii. Facilities for the aged, ~~drug addicts, or alcoholics~~ or individuals with a substance use disorder; or (3-31-22)( )
- iv. A military or veterans' hospital, a soldiers' home or a hospital contracted for or operated by any national government or government agency for the treatment of members or ex-members of the armed forces, except for services rendered on an emergency basis where a legal liability for the patient exists for charges made to the individual for the services. ( )

**06. Mental Disorders or Nervous Disorders.** "Mental disorders" or "nervous disorders" ~~includes neurosis, psychoneurosis, psychosis, or mental or emotional disease or disorder of any kind~~ means any condition or disorder defined by categories listed in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) or its successor. (3-31-22)( )

**07. Nurse.** "Nurse" may be restricted to a type of nurse, such as registered nurse, ~~a licensed practical nurse, or a licensed vocational nurse.~~ If the words "nurse," ~~"trained nurse" or "registered nurse"~~ are is used without specific instruction, then the use ~~of these terms~~ necessitates the insurer ~~to~~ recognize the services of any individual who qualifies under the terminology in accordance with the applicable statutes or administrative rules of the licensing or registry board of the state ~~of Idaho.~~ (3-31-22)( )

**08. One Period of Confinement.** "One (1) period of confinement" means consecutive days of in-hospital service received as an in-patient, or successive confinements when discharge from and readmission to the hospital occurs within a period of time not more than ninety (90) days or three (3) times the maximum number of days of in-hospital coverage provided by the policy to a maximum of one hundred eighty (180) days. ( )

**09. Partial Disability.** "Partial disability" is in relation to the individual's inability to perform one or more but not all of the "major," "important" or "essential" duties of employment or occupation, or may be related to a percentage of time worked or to a specified number of hours or to compensation. ( )

- 10. Preexisting Condition.** "Preexisting condition" is: (3-31-22)
- ~~a. A condition that would have caused an ordinarily prudent person to seek medical advice, diagnosis, care or treatment during the six (6) months immediately preceding the effective date of coverage;~~ (3-31-22)
- ~~b. A~~ a condition for which medical advice, ~~diagnosis, care~~ or treatment was recommended ~~or received~~ by a provider during the six (6) months immediately preceding the effective date of coverage; ~~or~~ (3-31-22)
- ~~c. A pregnancy existing on the effective date of coverage.~~ (3-31-22)( )

**11. Provider.** “Provider” means a person or entity that, as necessary, is licensed to provide health care or related services. ( )

**12. Residual Disability.** “Residual disability” is in relation to the individual’s reduction in earnings and may be related either to the inability to perform some part of the “major,” “important,” or “essential duties” of employment or occupation, or to the inability to perform all usual business duties for as long as is usually necessary. A policy that provides for residual disability benefits may impose a qualification period, during which the insured needs to be continuously totally disabled before residual disability benefits are payable. The qualification period for residual benefits may be longer than the elimination period for total disability. In lieu of the term “residual disability,” the insurer may use “proportionate disability” or other term of similar import that in the opinion of the Director adequately and fairly describes the benefit. ( )

**13. Sickness or Illness.** “Sickness or illness” means sickness or disease of an insured person that presents itself after the effective date of insurance and while the insurance is in force. It may exclude sickness or disease for which benefits are provided under a worker’s compensation, occupational disease, employers’ liability or similar law.” ( )

**14. Total Disability.** “Total disability” is in accordance with the following limitations: ( )

**a.** The individual who is totally disabled not be engaged in any employment or occupation for which he or she is or becomes qualified by reason of education, training or experience, and is not in fact engaged in any employment or occupation for wage or profit. ( )

**b.** Total disability may be defined in relation to the inability of the person to perform duties but is not to be based solely upon an individual’s inability to: ( )

**i.** Perform “any occupation whatsoever,” “any occupational duty,” or “any and every duty of his occupation”; or ( )

**ii.** Engage in a training or rehabilitation program. ( )

**c.** An insurer may stipulate the complete inability of the person to perform all of the substantial and material duties of his or her regular occupation or words of similar import. An insurer may stipulate care by a physician other than the insured or a member of the insured’s immediate family. ( )

**012. -- 019. (RESERVED)**

**020. BANNED POLICY PROVISIONS.**

**01. Probationary or Waiting Period.** Except as provided in Subsection 011.10 pertaining to the definition of a preexisting condition or Paragraph 038.02.e. of this chapter regarding specified disease coverage, a policy or certificate will not contain provisions establishing a probationary or waiting period during which no coverage is provided under the policy or certificate. Accident policies will not contain probationary or waiting periods. ( )

~~**02. Additional Coverage as Dividend.** A policy or rider for additional coverage will not be issued as a dividend unless an equivalent cash payment is offered as an alternative to the dividend policy or rider. A dividend policy or rider for additional coverage will not be issued for an initial term of less than six (6) months. (3-31-22)~~

~~**a.** The initial renewal subsequent to the issuance of a policy or rider as a dividend will clearly disclose that the policyholder is renewing the coverage that was provided as a dividend for the previous term and that the renewal is optional. (3-31-22)~~

~~**03. Return of Premium or Cash Value Benefit.** A disability income policy, accident only policy, limited benefit policy, specified disease policy or hospital confinement indemnity policy may contain a “return of premium” or “cash value benefit” so long as the return of premium or cash value benefit is not reduced by an amount greater than the aggregate of claims paid under the policy, and the insurer demonstrates that the reserve basis for the~~

policies is adequate. ~~No other policy subject to this chapter is to provide a return of premium or cash value benefit, except~~ A policy may return of unearned premium upon termination or suspension of coverage, retroactive waiver of premium paid during disability, payment of dividends on participating policies, or experience rating refunds.

~~(3-31-22)( )~~

**043. Exclusions.** A policy or certificate will not limit or exclude coverage by type of illness, accident, treatment or medical condition, except that a policy or certificate may include one (1) or more of the following limitations or exclusions: ( )

- a. Preexisting conditions or diseases, ~~except for congenital anomalies of a covered dependent child;~~ ( )  
~~(3-31-22)( )~~
- b. Mental or emotional disorders, alcoholism and drug addiction; ( )
- c. Pregnancy, except for complications of pregnancy; ( )
- d. Illness, treatment or medical condition arising out of: ( )
  - i. War or act of war (whether declared or undeclared); participation in a felony, riot or insurrections; service in the armed forces or units auxiliary to it; ( )
  - ii. Suicide (sane or insane), attempted suicide, or intentionally self-inflicted injury; ( )
  - iii. Professional aviation ~~for wage or profit;~~ and ~~(3-31-22)( )~~
  - iv. With respect to disability income protection policies, incarceration. ( )
- e. Cosmetic surgery, except that “cosmetic surgery” will not include reconstructive surgery when the service is incidental to or follows surgery resulting from trauma, infection or other diseases of the involved part; reconstructive surgery because of congenital disease or anomaly of a covered dependent child; or involuntary complications or complications related to a cosmetic procedure; ( )
- f. Foot care in connection with corns, calluses, flat feet, fallen arches, weak feet, chronic foot strain or symptomatic complaints of the feet; ( )
- g. Care in connection with the detection and correction by manual or mechanical means of structural imbalance, distortion, or subluxation in the human body for purposes of removing nerve interference and the effects of it, where the interference is the result of or related to distortion, misalignment or subluxation of, or in the vertebral column; ( )
- h. Benefits in excess of Medicare eligible expense, if enrolled in Medicare or other governmental program (except Medicaid), or benefits provided under a state or federal worker’s compensation law, employers liability or occupational disease law, or motor vehicle no-fault law unless the motor vehicle no-fault plan provides for coordination of benefits; services performed by a member of the covered person’s immediate family; and services for which no charge is normally made in the absence of insurance; ( )
  - i. Dental care or treatment; ( )
  - j. Eye glasses and the examination for the prescription, or fitting of them; ( )
  - k. Rest cures, custodial care, transportation, and routine physical examinations; ( )
  - l. Territorial limitations; ( )
  - m. ~~Hearing aids, auditory osseointegrated (bone conduction) devices, cochlear implants and examination for or fitting of them, except for congenital or acquired hearing loss that without intervention may result in cognitive or speech development deficits of a covered dependent child, covering not less than one (1) device every~~

~~thirty-six (36) months per ear with loss and not less than forty-five (45) language/speech therapy visits during the first twelve (12) months after delivery of the covered device.~~ (3-31-22)

~~n- Missed or canceled appointments; completion of claim forms or records copying; failure to vacate a room on or before the facility's established discharge hour; educational and training services except as provided by the policy or certificate; over the counter medical supplies, consumable or disposable supplies, including but not limited to elastic stockings, ace bandages, gauze, alcohol swabs or dressings;~~ (3-31-22)

~~o- Treatment, services or supplies not prescribed by or upon the direction of a licensed provider, acting within the scope of his or her license;~~ (3-31-22)

~~p- Services rendered prior to the effective date of coverage or after termination of coverage, except as provided by an extension of benefits provision, and;~~ (3-31-22)

~~q- The reversal of an elective sterilization procedure, including but not limited to vasovasostomies or salpingoplasties.~~ (3-31-22)

**054. Preexisting Conditions.** ( )

a. Except as provided in this subsection, a policy will not deny, exclude or limit benefits for covered expenses incurred more than twelve (12) months following the effective date of the coverage due to a preexisting condition. ( )

b. For hospital confinement indemnity and accident only policies ~~other than disability income or specified disease~~, an individual carrier will not modify a policy with respect to an individual or dependent through riders, endorsements, or otherwise, to restrict or exclude coverage for specifically named preexisting diseases or conditions otherwise covered by the policy. (3-31-22)( )

**021. -- 029. (RESERVED)**

**030. MINIMUM STANDARDS FOR BENEFITS.**

**01. Minimum Standards.** ~~The following~~ An insurance policy or certificate subject to this chapter will meet the applicable minimum standards ~~for benefits are prescribed for the categories of coverage~~ noted in Sections ~~035~~ 030 through 040 of this chapter. ~~Such an insurance policy or certificate will not be offered, delivered, issued for delivery, or renewed in this state or to a resident of this state unless it meets the minimum standards for the specified categories or the Director finds that the policies or contracts are allowable as limited benefit health insurance, and the outline of coverage complies with the applicable model outline of coverage for each category of coverage. An insurer will deliver an outline of coverage to an applicant or enrollee with the sale.~~ (3-31-22)( )

**02. Renewability.** A “noncancellable,” “guaranteed renewable,” or “noncancellable and guaranteed renewable” policy or certificate will not provide for termination of coverage of the spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than nonpayment of premium. In addition, the policy will provide that in the event of the insured’s death, the spouse of the insured, if covered under the policy, will become the insured. ( )

a. The terms “noncancellable,” “guaranteed renewable,” or “noncancellable and guaranteed renewable” will not be used without further explanatory language in accordance with the disclosure requirements of Section 101 of this chapter. ( )

b. The terms “noncancellable” or “noncancellable and guaranteed renewable” may be used only in a policy that the insured has the right to continue in force by the timely payment of premiums set forth in the policy, during which period the insurer has no right to make unilaterally any change in any provision of the policy while the policy is in force. ( )

c. An individual accident and sickness or individual accident-only policy that provides for periodic payments, weekly or monthly, for a specified period during the continuance of disability resulting from accident or

sickness may provide that the insured has the right to continue the policy only to age sixty (60) if, at age sixty (60), the insured has the right to continue the policy in force at least to age sixty-five (65) while actively and regularly employed. ( )

**d.** Except as provided in Subsection 030.02 of this chapter, (the term “guaranteed renewable” may be used only in a policy that the insured has the right to continue in force by the timely payment of premiums and, until the age of sixty-five (65) or until eligibility for Medicare and to the extent not in conflict with the federal Health Insurance Portability and Accountability Act (HIPAA), during which period the insurer has no right to make unilaterally any change in any provision of the policy while the policy is in force, except where the insurer is able to show good cause for changing the policy provisions and obtains prior written approval from the Director. The insurer may make changes in premium rates by classes. ( )

**03. Age and Durational Requirements.** In a policy covering both husband and wife, the age of the younger spouse will be used as the basis for meeting the age and durational requirements of the definitions of “noncancellable” or “guaranteed renewable.” However, this provision will not mandate termination of coverage of the older spouse upon attainment of the stated age so long as the policy may be continued in force as to the younger spouse as the insured to the age or for the durational period as specified in the policy. ( )

**04. Accidental Death and Dismemberment Coverage.** When accidental death and dismemberment coverage is part of the policy coverage offered under the contract, the insured will have the option to include all insureds under the coverage. ( )

**05. Military Service Limitations.** If a policy contains a status-type military service exclusion or a provision that suspends coverage during military service, the policy will provide, upon receipt of written request, for refund of premiums as applicable to the person on a pro rata basis. ( )

**06. Pregnancy Benefit Extension.** In the event the insurer cancels or refuses to renew, policies providing pregnancy benefits will provide for an extension of benefits as to pregnancy commencing while the policy is in force and for which benefits would have been payable had the policy remained in force. ( )

**07. Convalescent or Extended Care Benefits.** Policies providing convalescent or extended care benefits following hospitalization will not condition the benefits upon admission to the convalescent or extended care facility within a period of less than fourteen (14) days after discharge from the hospital. ( )

**08. Coverage of Dependents.** A policy’s coverage will continue for a dependent child who is incapable of self-sustaining employment due to intellectual disability or physical disability on the date that the child’s coverage would otherwise terminate under the policy due to the attainment of a specified age ~~for children~~ and who is chiefly dependent on the insured for support and maintenance. The policy may stipulate that the company receives due proof of the incapacity within thirty-one (31) days of the date in order for the insured to elect to continue the policy in force with respect to the child, or that a separate converted policy be issued at the option of the insured or policyholder. Provisions relating to coverage of dependents with intellectual disabilities or physical disabilities need meet the requirements of Sections 41-2139 and 41-2203, Idaho Code. ~~(3-31-22)~~( )

**09. Expenses of Live Donor.** A policy providing coverage for the recipient in a transplant operation will also provide reimbursement of any medical expenses of a live donor to the extent that benefits remain and are available under the recipient's policy or certificate, after benefits for the recipient's own expenses have been paid. ( )

**10. Recurrent Disabilities.** A policy may contain a provision relating to recurrent disabilities, but a provision relating to recurrent disabilities will not specify that a recurrent disability be separated by a period greater than six (6) months. ( )

**11. Accidental Death and Dismemberment.** Accidental death and dismemberment benefits will be payable if the loss occurs within ninety (90) days from the date of the accident, irrespective of total disability. ~~Disability income benefits, if provided, will not require the loss to commence less than thirty (30) days after the date of accident, nor will any policy that the insurer cancels or refuses to renew require that it be in force at the time disability commences if the accident occurred while the coverage was in force.~~ ~~(3-31-22)~~( )

12. **Specific Dismemberment Benefits.** Specific dismemberment benefits will not be in lieu of other benefits unless the specific benefit equals or exceeds the other benefits. ( )

13. **Extension of Benefits.** Termination of the policy will be without prejudice to a continuous loss that commenced while the policy or certificate was in force. Such extension of benefits beyond the period during which the policy was in force may be conditioned upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits. ( )

14. ~~Fractures or Dislocations~~ **Unfair Exclusions.** A policy providing coverage for ~~fractures or dislocations will not~~ certain illnesses and injuries will not define covered illnesses and injuries in a way that is misleading or includes unfair exclusions, such as providing benefits only for “full or complete” fractures or dislocations. (3-31-22)( )

031. -- 034. (RESERVED)

035. HOSPITAL CONFINEMENT INDEMNITY COVERAGE.

01. **Minimum Standards for Benefits.** The following minimum standards apply: ( )

a. Provides daily benefits for hospital confinement on an indemnity basis in an amount not less than forty dollars (\$40) per day; and ( )

b. Provides benefits for not less than thirty-one (31) days during each period of confinement for each person insured under the policy. ( )

c. Benefits will be paid regardless of other coverage. ( )

02. **Banned Policy or Certificate Provisions.** ( )

~~a. Policies may contain a “return of premium” or “cash value benefit” so long as the return of premium or cash value benefit is not reduced by an amount greater than the aggregate of claims paid under the policy or certificate, and the insurer demonstrates that the reserve basis for the policies is adequate.~~ (3-31-22)

~~b.a.~~ Policies providing hospital confinement indemnity coverage will not contain provisions excluding coverage because of confinement in a hospital operated by the federal government. ( )

~~e.b.~~ Policies or certificates which include additional indemnity coverage on a basis other than per day of confinement will not be considered hospital confinement coverage. ( )

03. **Disclosure Provisions.** ( )

a. All hospital confinement indemnity policies and certificates will ~~display~~ prominently state on the first page ~~of the policy or certificate~~, in either contrasting color or in boldface type at least equal to the size type used for headings or captions of sections ~~in the policy or certificate the following~~: “Notice to Buyer: This is a hospital confinement indemnity (policy) (certificate). This (policy) (certificate) provides limited benefits. Benefits provided are supplemental and are not intended to cover all medical expenses.” (3-31-22)( )

b. Outlines of coverage delivered in connection with “Hospital Confinement Indemnity Coverage” to persons eligible for Medicare by reason of age will ~~contain the following language~~ state in boldface type on the first page ~~of the outline of coverage~~: “THIS IS NOT A MEDICARE SUPPLEMENT POLICY. If you are eligible for Medicare, review the ‘Guide to Health Insurance for People with Medicare’ available from the company.” (3-31-22)( )

c. An insurer will deliver to persons eligible for Medicare any notice prescribed under IDAPA 18.04.10, “Rule to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act.” ( )



036. DISABILITY INCOME PROTECTION COVERAGE.

01. Minimum Standards for Benefits. The ~~following~~ minimum standards ~~apply to~~ for disability income protection coverage are: (3-31-22)(    )

a. Provides that any periodic payments ~~that are payable at ages after sixty-two (62) and reduced solely on the basis of age are at least fifty percent (50%) of amounts payable immediately prior to sixty-two (62)~~ are not reduced based on age, except when such reductions do not exceed fifty percent (50%) and do not take place until the individual has reached full retirement age for Social Security benefits; (3-31-22)(    )

b. Contains an elimination period no greater than: one-fourth (1/4) of the maximum payable benefit period, and not exceeding one (1) year; (3-31-22)(    )

i. ~~Ninety (90) days in the case of a coverage providing a benefit of one year (1) or less;~~ (3-31-22)

ii. ~~One hundred and eighty (180) days in the case of coverage providing a benefit of more than one (1) year but not greater than two (2) years; or~~ (3-31-22)

iii. ~~Three hundred sixty-five (365) days in all other cases during the continuance of disability resulting from sickness or injury;~~ (3-31-22)

c. Has a maximum payable benefit ~~period of time for which it is payable during disability~~ of at least ~~six (6)~~ three (3) months. No reduction in benefits is put into effect because of an increase in Social Security or similar benefits during a benefit period. (3-31-22)(    )

02. Banned Policy Provisions. ( )

a. Where a policy provides total disability ~~benefits~~ and partial disability benefits, only one (1) elimination period may ~~be applied~~ applied. (3-31-22)(    )

~~b. A disability income policy may contain a "return of premium" or "cash value benefit" so long as the return of premium or cash value benefit is not reduced by an amount greater than the aggregate of claims paid under the policy, and the insurer demonstrates that the reserve basis for the policies is adequate.~~ (3-31-22)

eb. Disability income protection benefits will not require the loss to commence less than thirty (30) days after the date of accident, nor will any policy that the insurer cancels or refuses to renew require that it be in force at the time disability commences if the accident occurred while the coverage was in force. (3-31-22)(    )

~~dc.~~ No reduction in benefits will be put into effect because of an increase in Social Security or similar benefits during a benefit period. ( )

ed. No policy or certificate may use activities of daily living to define partial or total disability. ( )

03. Disclosure Provisions. All disability income protection policies will ~~display~~ prominently state on the first page ~~of the policy~~, in either contrasting color or in boldface type at least equal to the size type used for headings or captions of sections ~~in the policy the following~~: "Notice to Buyer: This is a disability income protection policy." (3-31-22)(    )

037. ACCIDENT ONLY COVERAGE.

01. Minimum Standards for Benefits. The following minimum standards apply to accident only coverage: ( )

a. Accidental death and double dismemberment amounts under the policy or certificate are at least one thousand dollars (\$1,000); ( )

b. A single dismemberment amount is at least five hundred dollars (\$500); and ( )

- c. Benefits for disability, hospital or medical care will be as defined in the policy or certificate. ( )
02. Banned **Policy Provisions**. Accident only policies or certificates will not contain probationary or waiting periods. ( )
03. **Disclosure Provisions**. ( )
- a. All accident-only policies and certificates will ~~contain a~~ prominently ~~ly~~ ~~statement~~ on the first page ~~of the policy or certificate~~, in either contrasting color or in boldface type at least equal to the size of type used for headings or captions of sections ~~in the policy or certificate, a prominent statement as follows~~: “Notice to Buyer: This is an accident-only (policy) (certificate) and it does not pay benefits for loss from sickness. Review your (policy) (certificate) carefully.” (3-31-22)( )
- b. An accident-only policy or certificate providing benefits that vary according to the type of accidental cause will prominently ~~set forth~~ state in the outline of coverage the circumstances under which benefits are payable that are less than the maximum amount payable under the policy or certificate. (3-31-22)( )
- c. Accident-only policies or certificates that provide coverage for hospital or medical care will ~~contain the following statement~~ state in addition to the Notice to Buyer: “This (policy) (certificate) provides limited benefits. Benefits provided are supplemental and are not intended to cover all medical expenses.” (3-31-22)( )
- 038. SPECIFIED DISEASE COVERAGE.**
01. **Minimum Standards for Benefits**. The ~~following~~ minimum standards ~~apply to for~~ specified disease coverage are: (3-31-22)( )
- a. Coverage for cancer only or cancer in conjunction with other conditions or diseases needs to meet the standards of Paragraphs 01.e., 01.f., or 01.g. of this section. ( )
- b. Coverage for specified diseases other than cancer meets the standards of Paragraphs 01.c., 01.d., or 01.g. of this section. ( )
- c. Non-cancer Coverages with Deductible. Coverage for each insured person for a specifically named disease (or diseases) with a deductible amount not in excess of two hundred fifty dollars (\$250) and an overall aggregate benefit limit of not less than ten thousand dollars (\$10,000) and a benefit period of not less than two (2) years for at least the following incurred expenses: ( )
- i. Hospital room and board and any other hospital furnished medical services or supplies; ( )
- ii. Treatment by a legally qualified physician or surgeon; ( )
- iii. Private duty services of a registered nurse ~~(R.N.)~~; (3-31-22)( )
- iv. ~~X-ray, radium and other therapy procedures~~ Medical services and supplies used in diagnosis and treatment; (3-31-22)( )
- v. Professional ambulance for local service to or from a local hospital; ( )
- vi. Blood transfusions, including expense incurred for blood donors; ( )
- vii. Drugs and medicines prescribed by a physician; ( )
- viii. The rental of an iron lung or similar mechanical apparatus; ( )
- ix. ~~Braees, crutches, and wheel chairs~~ Durable medical equipment deemed necessary by the attending

physician for the treatment of the disease; (3-31-22)( )

x. Emergency transportation if in the opinion of the attending physician it is necessary to transport the insured to another locality for treatment of the disease; and ( )

xi. May include coverage of any other expenses necessarily incurred in the treatment of the disease. ( )

d. Non-cancer Coverages without Deductible. Coverage for each insured person for a specifically named disease (or diseases) with no deductible amount, and an overall aggregate benefit limit of not less than twenty-five thousand dollars (\$25,000) payable at the rate of not less than fifty dollars (\$50) a day while confined in a hospital and a benefit period of not less than five hundred (500) days. (3-31-22)( )

e. Cancer-only or Combination Expense Policies. Coverage for each insured person for cancer-only coverage or in combination with one (1) or more other specified diseases on an expense incurred basis for services, supplies, care, and treatment of cancer, in amounts not in excess of the usual and customary charges, with a deductible amount not in excess of two hundred fifty dollars (\$250), and an overall aggregate benefit limit of not less than ten thousand dollars (\$10,000) and a benefit period of not less than three (3) years for at least the following minimum provisions: ( )

i. Treatment by, or under the direction of, a legally qualified physician or surgeon; ( )

ii. ~~X ray, radium, chemotherapy and other therapy procedures~~ Medical services and supplies used in diagnosis and treatment; (3-31-22)( )

iii. Hospital room and board and any other hospital furnished medical services or supplies; ( )

iv. Blood transfusions and their administration, including expense incurred for blood donors; ( )

v. Drugs and medicines prescribed by a physician; ( )

vi. Professional ambulance for local service to or from a local hospital; ( )

vii. Private duty services of a registered nurse provided in a hospital; ( )

viii. ~~Braes, crutches, and wheelchairs~~ Durable medical equipment deemed necessary by the attending physician for the treatment of the disease; (3-31-22)( )

ix. Emergency transportation if in the opinion of the attending physician it is necessary to transport the insured to another locality for treatment of the disease; and ( )

x. Home health care that is necessary care and treatment provided at the insured person's residence by a home health care agency or by others under arrangements made with a home health care agency. The program of treatment will be prescribed in writing by the insured person's attending physician, who will approve the program prior to its start. ~~The physician certifies that hospital confinement would be otherwise necessary. Home health care includes, but is not limited to:~~ (3-31-22)

~~(1) Part-time or intermittent skilled nursing services provided by a registered nurse or a licensed practical nurse;~~ (3-31-22)

~~(2) Part-time or intermittent home health aide services that provide supportive services in the home under the supervision of a registered nurse or a physical, speech, or hearing occupational therapists;~~ (3-31-22)

~~(3) Physical, occupational, or speech and hearing therapy;~~ (3-31-22)

~~(4) Medical supplies, drugs, and medicines prescribed by a physician and related pharmaceutical~~

~~services, and laboratory services to the extent the charges or costs would have been covered if the insured person had remained in the hospital;~~ (3-31-22)

- xi. Therapy, including physical, speech, hearing, and occupational therapy; ( )
- xii. Special equipment including hospital bed, toilette, pulleys, wheelchairs, aspirator, chux, oxygen, surgical dressings, rubber shields, colostomy, and ileostomy appliances; ( )
- xiii. Prosthetic devices including wigs and artificial breasts; ( )
- xiv. Nursing home care for non-custodial services; and ( )
- xv. Reconstructive surgery when deemed necessary by the attending physician. ( )
- f. Per Diem Cancer Coverages.** Cancer coverages on a per diem indemnity basis includes: ( )
  - i. A fixed-sum payment of at least one hundred dollars (\$100) for each day of hospital confinement for at least three hundred sixty-five (365) days; ( )
  - ii. A fixed-sum payment equal to one-half (1/2) the hospital inpatient benefit for each day of hospital or nonhospital outpatient surgery, chemotherapy and radiation therapy, for at least three hundred sixty-five (365) days of treatment; and ( )
  - iii. A fixed-sum payment of at least fifty dollars (\$50) per day for blood and plasma, which includes their administration whether received as an inpatient or outpatient for at least three hundred sixty-five (365) days of treatment. ( )
- g. Lump Sum Indemnity Coverage.** Lump sum indemnity coverage for any specified disease will be payable as a fixed, one-time payment made within thirty (30) days of submission to the insurer of proof of diagnosis of the specified disease. ( )
  - i. Dollar benefits may only be in increments of one thousand dollars (\$1,000). ( )
  - ii. Where coverage is advertised or otherwise represented to offer generic coverage of a disease or diseases, the same dollar amounts will be payable regardless of the particular subtype of the disease with one exception. In the case of clearly identifiable subtypes with significantly lower treatments costs, lesser amounts may be payable so long as the policy or certificate clearly differentiates that subtype and its benefits. ( )
- h. Hospice Care.** Hospice care is optional and does not cover non-terminally ill patients. If offered, it will provide: ( )
  - i. Eligibility for payment of benefits when the attending physician of the insured provides a written statement that the insured person has a life expectancy of six (6) months or less; ( )
  - ii. A fixed-sum payment of at least fifty dollars (\$50) per day; and ( )
  - iii. A lifetime maximum benefit limit of at least ten thousand dollars (\$10,000). ( )
- i. Nursing Home Care.** Benefits for skilled nursing home confinement or the receipt of home health care are optional. If offered, it will provide: ( )
  - i. A fixed-sum payment equal to one-fourth (1/4) the hospital in-patient benefit for each day of skilled nursing home confinement for at least one hundred (100) days, but no more restrictive than under Medicare; ( )
  - ii. A fixed-sum payment equal to one-fourth (1/4) the hospital in-patient benefit for each day of home health care for at least one hundred (100) days, but no more restrictive than under Medicare; and ( )

iii. Benefit payments begin with the first day of care or confinement after the effective date of coverage if the care or confinement is for a covered disease even though the diagnosis of a covered disease is made at some later date (but not retroactive more than thirty (30) days from the date of diagnosis) if the initial care or confinement was for diagnosis or treatment of the covered disease. ( )

**02. Banned Policy or Certificate Provisions.** Except for cancer coverage provided on an expense-incurred basis, either as cancer-only coverage or in combination with one or more other specified diseases, the following rules apply to specified disease coverages in addition to all other requirements imposed by this chapter. In cases of conflict the following govern: ( )

a. Policies covering a single specified disease or combination of specified diseases are not to be sold or offered for sale other than as specified disease coverage under this Section. ( )

b. Any policy issued pursuant to this Section that conditions payment upon pathological diagnosis of a covered disease will also provide that if the pathological diagnosis is medically inappropriate, a clinical diagnosis will be accepted instead. ( )

c. Notwithstanding any other provision of this chapter, specified disease policies will provide benefits to any covered person not only for the specified diseases but also for any other conditions or diseases, directly caused or aggravated by the specified diseases or the treatment of the specified disease. ( )

d. Individual accident and sickness policies containing specified disease coverage will be guaranteed renewable. ( )

e. No policy issued pursuant to this Section contains a waiting or probationary period greater than thirty (30) days. A specified disease policy may contain a waiting or probationary period following the issue or reinstatement date of the policy or certificate in respect to a particular covered person before the coverage becomes effective as to that covered person. ( )

f. Except for lump sum indemnity coverage, payments may be conditioned upon an insured person's receiving medically necessary care, given in a medically appropriate location, under a medically accepted course of diagnosis or treatment. ( )

g. Benefits will be paid regardless of other coverage. ( )

h. After the effective date of the coverage (or applicable waiting period, if any) benefits begins with the first day of care or confinement if the care or confinement is for a covered disease even though the diagnosis is made at some later date. The retroactive application of the coverage is not to be less than ninety (90) days prior to the diagnosis. ( )

i. Policies providing expense benefits will not use the term "actual" when the policy only pays up to a limited amount of expenses. Instead, the term "charge" or substantially similar language should be used that does not have the misleading or deceptive effect of the phrase "actual charges." ( )

j. Preexisting condition will not be defined to be more restrictive than ~~the following~~: "Preexisting condition means a condition for which medical advice, diagnosis, care or treatment was recommended or received from a physician within the six (6) month period preceding the effective date of coverage of an insured person." (3-31-22)( )

k. Coverage for specified diseases will not be excluded due to a preexisting condition for a period greater than twelve (12) months following the effective date of coverage of an insured person unless the preexisting condition is specifically excluded. ( )

**03. Disclosure Provisions.** ( )

a. An application or enrollment form for specified disease coverage will ~~contain a statement~~ above the

signature of the applicant or enrollee that a person to be covered for specified disease is not also covered by any Title XIX program (Medicaid, or any similar name). The statement may be combined with any other statement for which the insurer may request the applicant's or enrollee's signature. (3-31-22)( )

b. All specified disease policies and certificates will ~~contain prominently state~~ on the first page in either contrasting color or in boldface type at least equal to the size type used for headings or captions of sections ~~in the policy or certificate a prominent statement as follows~~: "Notice to Buyer: This is a specified disease (policy) (certificate). This (policy) (certificate) provides limited benefits. Benefits provided are supplemental and are not intended to cover all medical expenses. Read your (policy) (certificate) carefully with the outline of coverage." (3-31-22)( )

c. Outlines of coverage delivered in connection with "Specified Disease" to persons eligible for Medicare by reason of age will ~~contain the following language state~~ in boldface type on the first page ~~of the outline of coverage~~: "THIS IS NOT A MEDICARE SUPPLEMENT POLICY. If you are eligible for Medicare, review the 'Guide to Health Insurance for People with Medicare' available from the company." (3-31-22)( )

d. An insurer will deliver to persons eligible for Medicare any notice prescribed under IDAPA 18.04.10, ~~"Rule to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act Medicare Supplement Insurance Standards."~~ (3-31-22)( )

**039. SPECIFIED ACCIDENT COVERAGE.**

**01. Minimum Standards for Benefits.** The ~~following~~ minimum standards ~~apply to for~~ specified accident coverage ~~are~~: (3-31-22)( )

- a. A benefit amount not less than one thousand dollars (\$1,000) for accidental death; ( )
- b. A benefit amount not less than one thousand dollars (\$1,000) for double dismemberment; and ( )
- c. A benefit amount not less than five hundred dollars (\$500) for single dismemberment. ( )

**02. Banned Policy or Certificate Provisions.** Specified accident policies will not contain probationary or waiting periods. ( )

**03. Disclosure Provisions.** ( )

a. Specified accident policies or certificates that provide coverage for hospital or medical care will ~~contain the following prominently~~ statement in addition to the Notice to Buyer: "This (policy) (certificate) provides limited benefits. Benefits provided are supplemental and are not intended to cover all medical expenses." (3-31-22)( )

b. All specified accident policies and certificates will ~~contain a prominently~~ statement on the first page ~~of the policy or certificate~~, in either contrasting color or in boldface type at least equal to the size of type used for headings or captions of sections ~~in the policy or certificate, a prominent statement as follows~~: "Notice to Buyer: This is an accident-only (policy) (certificate) and it does not pay benefits for loss from sickness. Review your (policy) (certificate) carefully." (3-31-22)( )

**040. LIMITED BENEFIT HEALTH COVERAGE.**

**01. Minimum Standards.** ( )

a. Limited Benefit Health Coverage will not be offered, delivered, issued for delivery, or renewed in this state or to a resident of this state unless approved by the Director prior to use. ( )

b. A policy covering a single specified disease or combination of diseases will not be offered for sale as "limited benefit" coverage. ( )

c. Section 040 does not apply to policies designed to provide coverage for long-term care or to Medicare supplement insurance, as defined in Title 41, Chapter 46, Idaho Code, “Long-Term Care Insurance” and Title 41, Chapter 44, Idaho Code, “Medicare Supplement Insurance Minimum Standards.” ( )

**02. Disclosure Provisions.** ( )

a. All limited benefit health policies and certificates will ~~display~~ prominently state on the first page ~~of the policy or certificate~~, in either contrasting color or in boldface type at least equal to the size type used for headings or captions of sections ~~in the policy or certificate the following~~: “Notice to Buyer: This is a limited benefit health (policy) (certificate). This (policy) (certificate) provides limited benefits. Benefits provided are supplemental and are not intended to cover all medical expenses.” (3-31-22)( )

b. An insurer will deliver to persons eligible for Medicare any notice prescribed under IDAPA 18.04.10, “Rule to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act.” ( )

**041. DENTAL COVERAGE.**

**01. Disclosure Provisions.** ~~Dental coverage will include the following disclosures;~~ (3-31-22)( )

a. All dental coverage applications will ~~contain a~~ prominently statement in either contrasting color or in boldface type at least equal to the size type used for the headings or captions of sections ~~of the application~~ and in close conjunction with the applicant’s signature block ~~on the application as follows~~: “The (policy) (certificate) provides dental benefits only. Review your (policy) (certificate) carefully.” (3-31-22)( )

b. All dental plan coverage policies and certificates will ~~display~~ prominently state on the first page ~~of the policy or certificate~~, in either contrasting color or in boldface type at least equal to the size type used for headings or captions of sections ~~in the policy or certificate the following~~: “Notice to Buyer: This (policy) (certificate) provides dental benefits only.” (3-31-22)( )

**042. VISION COVERAGE.**

**01. Disclosure Provisions.** ~~Vision coverage will include the following disclosures;~~ (3-31-22)( )

a. All vision coverage applications will ~~contain a~~ prominently statement in either contrasting color or in boldface type at least equal to the size type used for the headings or captions of sections ~~of the application~~ and in close conjunction with the applicant’s signature block ~~on the application as follows~~: “The (policy) (certificate) provides vision benefits only. Review your (policy) (certificate) carefully.” (3-31-22)( )

b. All vision plan coverage policies and certificates will ~~display~~ prominently state on the first page ~~of the policy or certificate~~ in either contrasting color or in boldface type at least equal to the size type used for headings or captions of sections ~~in the policy or certificate the following~~: “Notice to Buyer: This (policy) (certificate) provides vision benefits only.” (3-31-22)( )

**043. -- 100. (RESERVED)**

**101. DISCLOSURE PROVISIONS.**

**01. General Rules for Disclosure Provisions.** ( )

a. All applications for coverages specified in Sections 035 through 040 will ~~contain a~~ prominently statement in either contrasting color or in boldface type at least equal to the size type used for the headings or captions of sections ~~of the application~~ and in close conjunction with the applicant’s signature block ~~on the application as follows~~: “The (policy) (certificate) provides limited benefits. Review your (policy) (certificate) carefully.” (3-31-22)( )

b. The first page of Eeach policy or certificate subject to this chapter will include a renewal,

continuation or nonrenewal provision. ~~The language or specification of the provision needs to be~~ consistent with the type of contract to be issued. The provision will be appropriately captioned, ~~will appear on the first page of the policy or certificate,~~ and will clearly state the duration, where limited, of renewability and the duration of the term of coverage for which the policy is issued and for which it may be renewed. (3-31-22)( )

c. Except for riders or endorsements by which the insurer effectuates a request made in writing by the policyholder or exercises a specifically reserved right under the policy, all riders or endorsements added to a policy after date of issue or at reinstatement or renewal that reduce or eliminate benefits or coverage in the policy will necessitate signed acceptance by the policyholder. After date of policy issue, any rider or endorsement that increases benefits or coverage with a commensurable increase in premium during the policy term is to be agreed to in writing signed by the policyholder, except if the increased benefits or coverage is prescribed by law. The signature requirements in this paragraph apply to group supplemental health insurance certificates only where the certificate holder also pays the insurance premium. ( )

d. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, the premium charge will be set forth in the policy or certificate. ( )

e. A policy or certificate that provides for the payment of benefits based on standards described as “usual and customary,” “reasonable and customary,” or words of similar import will include a definition of the terms and an explanation of the terms in its accompanying outline of coverage. ( )

f. If a policy or certificate contains any limitations with respect to preexisting conditions, the limitations will appear as a separate paragraph of the policy or certificate and be labeled as “Preexisting Condition Limitations.” ( )

g. All policies and certificates, will ~~have a notice~~ prominently ~~printed~~ state on the first page of the policy or certificate ~~stating~~ in substance that the policyholder or certificate holder will have the right to return the policy or certificate within ten (10) days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the policyholder or certificate holder is not satisfied for any reason. (3-31-22)( )

h. If age is to be used as a determining factor for reducing the maximum aggregate benefits made available in the policy or certificate as originally issued, that fact will be prominently ~~set forth~~ stated in the outline of coverage. (3-31-22)( )

i. If a policy or certificate contains a conversion privilege, it will ~~comply, in substance,~~ substantively comply with ~~the following:~~ (3-31-22)( )

i. The provision's ~~caption of the provision~~ will be “Conversion Privilege” ~~or words of similar import.~~ (3-31-22)( )

ii. The provision will indicate the persons eligible for conversion, the circumstances applicable to the conversion privilege, including any limitations on the conversion, and the person by whom the conversion privilege may be exercised; and ( )

iii. The provision will specify the benefits to be provided on conversion or may state that the converted coverage will be as provided on a policy form then being used by the insurer for that purpose. ( )

**02. Outline of Coverage Requirements.** ~~Outlines of coverage prescribed under this chapter will conform to the model outlines of coverage incorporated herein in Section 002 of this chapter, and set forth at the Idaho Department of Insurance website.~~ (3-31-22)( )

a. An insurer will deliver an outline of coverage to an applicant or enrollee in the sale of individual accident and sickness insurance, group supplemental health insurance, dental plans and vision plans as prescribed by Section 41-4205, Idaho Code. If an application is made by electronic means, an insurer will deliver an outline of coverage on the next working day the completed application is received, and delivery may be made by the following methods regardless of the form of application: ( )



- i. E-mail; ( )
- ii. Website link; ( )
- iii. Facsimile; ( )
- iv. First class mail; or ( )
- v. Any other method permitted by the Director. ( )

**b.** If an outline of coverage was delivered at the time of application or enrollment and the policy or certificate is issued on a basis which would necessitate revision of the outline, a substitute outline of coverage properly describing the policy or certificate will accompany the delivered policy or certificate ~~when it is delivered~~ and ~~contain the following will~~ statement in no less than twelve (12) boldface point type, immediately above the company name: **“NOTICE: Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon (application) (enrollment), and the coverage originally applied for has not been issued.”**  
(3-31-22)( )

**c.** In any case where the prescribed outline of coverage is inappropriate for the coverage provided by the policy or certificate, an alternate outline of coverage will be filed with the Director. ( )

**102. -- 200. (RESERVED)**

**201. REQUIREMENTS FOR REPLACEMENT OF INDIVIDUAL ACCIDENT AND SICKNESS INSURANCE.**

**01. Application Form.** An application form will include a question designed to elicit information as to whether the insurance to be issued is intended to replace any other accident and sickness insurance presently in force. ~~A supplementary application or other form to be signed by the applicant containing the question may be used.~~  
(3-31-22)( )

**02. Prescribed Notice.** Notices prescribed under this chapter will conform to the model outlines of coverage incorporated herein in Section 002 of this chapter, and set forth at the Idaho Department of Insurance website. Upon determining that a sale will involve replacement, an insurer, or its agent will furnish the applicant, prior to issuance or delivery of the policy, the “Notice To Applicant Regarding Replacement Of Accident And Sickness Insurance,” taking into consideration the requirement for direct response or other than direct response. A direct response insurer will deliver to the applicant upon issuance of the policy, the notice described in this section. ( )

**202. -- 999. (RESERVED)**

**IDAPA 18 – DEPARTMENT OF INSURANCE**  
**18.06.01 – RULES PERTAINING TO BAIL AGENTS**  
**DOCKET NO. 18-0601-2301 (ZBR CHAPTER REWRITE)**  
**NOTICE OF RULEMAKING – PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211 and 41-1037 through 41-1045, Idaho Code.

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

<b>Wednesday, September 27, 2023</b> <b>3:00 p.m. to 4:30 p.m. (MT)</b>
<i>In-person participation is available at:</i> <b>Department of Insurance</b> <b>700 W. State St. 3rd Floor</b> <b>Boise, ID 83702</b>
<i>Web meeting link:</i> <a href="https://www.microsoft.com/microsoft-teams/join-a-meeting">https://www.microsoft.com/microsoft-teams/join-a-meeting</a> <i>Meeting ID: 297 636 144 490</i> <i>Meeting Password: 345BQf</i> <i>or by phone: +1 208-985-2810,,826046050#</i>

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

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

The purpose of this rule sets requirements and procedures relating to bail agents and is supplementary to other rules and laws in Title 41, Idaho Code, regulating insurance producers which also apply to bail agents. This rulemaking is consistent with the Governor's [Executive Order 2020-01: Zero-Based Regulation](#). The proposed changes are to simplify, clarify, and reduce.

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

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: None.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 7, 2023 Idaho Administrative Bulletin, [Vol. 23-06, pages 56-57](#), under Docket No. 18-ZBRR-2301.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Weston Trexler, (208) 334-4214, [weston.trexler@doi.idaho.gov](mailto:weston.trexler@doi.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2023.

DATED this 3rd day of August, 2023.

Dean L. Cameron, Director  
Idaho Department of Insurance  
700 W. State Street, 3rd Floor  
P.O. Box 83720  
Boise, ID, 83720-0043  
Phone: (208) 334-4250  
Fax: (208) 334-4398

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0601-2301**  
**(ZBR Chapter Rewrite)**

**18.06.01 – RULES PERTAINING TO BAIL AGENTS**

**000. LEGAL AUTHORITY.**

~~Title 41~~, Sections 41-211 and 41-1037 through 41-1045, Idaho Code.

~~(3-31-22)~~( )

**001. ~~TITLE AND SCOPE.~~**

~~01. Title. IDAPA 18.06.01, “Rules Pertaining to Bail Agents.”~~

~~(3-31-22)~~

~~02. Scope.~~ The provisions of this rule apply to all bail agents, as defined by Section 41-1038, Idaho Code. This rule is supplementary to other rules and laws regulating insurance producers, and all other rules of the Department and provisions of Title 41, Idaho Code, applicable to insurance producers apply to bail agents. ( )

**002. -- 011. (RESERVED).**

**012. NOTIFICATION REQUIREMENTS.**

**01. Notice of Changes.** A bail agent licensed pursuant to Section 41-1039, Idaho Code, will immediately notify the Department in writing of any the following: ( )

**a.** Change of bail agent’s name, current business address, or current business phone number or business e-mail address, ~~if any~~; ~~(3-31-22)~~( )

**b.** Change of name or address of any surety insurance company for which the bail agent has an active appointment; ( )

**c.** Cancellation by a surety insurance company of a bail agent’s authority to write bonds for that company; ( )

**d.** Any new affiliation with a bail bond agency; ( )

- e. Cancellation of a bail agent's affiliation with a bail agency; ( )
- 02. Notice of Legal Proceedings or Judgements. ( )

a. A bail agent will provide immediate written notice to the Department of the filing of any criminal charges or judgements against the bail agent. ~~A bail agent will also provide immediate written notice to the Department, and~~ of any material change in circumstances that would require a different answer than previously provided by the bail agent on the background information section of the Uniform Application for Individual Insurance Producer License/Registration. (3-31-22)( )

b. For the purpose of determining whether grounds for immediate suspension of a bail agent's license exist under Section 41-1039(4), Idaho Code, a withheld judgment or a plea of nolo contendere is considered the same as a conviction or guilty plea. ( )

013. ~~CRIMINAL HISTORY~~ BACKGROUND CHECKS.

~~01. Criminal History Check Requisite.~~ All licensed bail agents will ~~obtain~~ be subject to a criminal ~~history records~~ background check in connection with the renewal of a bail agent's license and will bear all costs associated with the ~~records check~~ background check. (3-31-22)( )

~~02. Grounds for Immediate Suspension.~~ ~~For the purpose of determining whether grounds for immediate suspension of a bail agent's license exist under Section 41-1039(4), Idaho Code, a withheld judgment or a plea of nolo contendere is considered the same as a conviction or guilty plea.~~ (3-31-22)

014. STACKING OF BONDS.

A bail agent may submit only one (1) power of attorney with each bail bond submitted to any Idaho court. The face value or face amount of the power ~~is~~ of attorney will be equal to or greater than the amount of the ~~bail or bond set by the court in the case for which the bond and power are being submitted.~~ (3-31-22)( )

015. NOTIFICATION TO SURETY OF FORFEITURE.

A bail agent will notify the surety insurance company of any forfeiture, as defined in Section 19-2905, Idaho Code, within ten (10) days of receiving the notice from the court. ( )

016. (RESERVED)

017. BAIL AGENT FINANCING OF BAIL BOND PREMIUMS.

01. **Written Agreement.** No credit may be extended by any bail agent or surety insurance company for the payment of any bail bond premium without entering into a written agreement. The written agreement for the extension of credit to finance premium need to contain at a minimum the following: ( )

- a. The name, signatures, and dates of signatures of all parties to the credit agreement; ( )
- b. The amount of premium financed; ( )
- c. The per annum rate of interest; and ( )
- d. The scheduled premium payment dates. ( )

~~02. Early Surrender for Failure to Pay.~~ ~~If failure to pay premiums due under a credit arrangement may result in the early surrender of the defendant, that fact needs to be clearly set forth in the written credit agreement. Early surrender for failure to make premium or interest payments when due is to be handled in accordance with Section 41-1044, Idaho Code, and neither the bail agent nor the surety is entitled to seek recovery of any amounts unpaid as of the date of surrender.~~ (3-31-22)

~~03.~~ **Collateral for Credit Agreement.** ~~If the credit agreement is to be collateralized, the collateral will not be excessive in relation to the amount of premium financed.~~ In any collateralized credit agreement the collateral

will be separate and apart from any collateral used in the bail bond transaction, will be described in the credit agreement or in an attachment to the agreement, and will be handled in accordance with Section 41-1043, Idaho Code. (3-31-22)(\_\_\_\_)

**018. PAYMENT OF FORFEITURE.**

It is a Failure to pay a claim for forfeiture by a surety is a violation of Section 41-1329(6), Idaho Code, ~~for a bail surety to fail to pay a claim for forfeiture after liability for payment has become reasonably clear.~~ Liability for payment upon forfeiture is considered reasonably clear when ~~a defendant has not appeared or has not been brought before the court within one hundred eighty 180 days after the entry of the order of forfeiture, or a motion to set aside the forfeiture, in whole or in part, has not been filed with the court within five (5) business days after the expiration of the one hundred eighty (180) day period following the order of forfeiture~~ payment is due pursuant to ~~the Idaho Bail Act~~ Section 19-2918, Idaho Code. (3-31-22)(\_\_\_\_)

**019. -- 999. (RESERVED)**

**IDAPA 18 – DEPARTMENT OF INSURANCE**  
**18.06.02 – PRODUCERS HANDLING OF FIDUCIARY FUNDS**  
**DOCKET NO. 18-0602-2301 (ZBR CHAPTER REWRITE)**  
**NOTICE OF RULEMAKING – PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Title 41, Chapters 2 and 10, Idaho Code.

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

<b>Wednesday, September 27, 2023</b> <b>3:00 p.m. to 4:30 p.m. (MT)</b>
<i>In-person participation is available at:</i> <b>Department of Insurance</b> <b>700 W. State St. 3rd Floor</b> <b>Boise, ID 83702</b>
<i>Web meeting link:</i> <a href="https://www.microsoft.com/microsoft-teams/join-a-meeting">https://www.microsoft.com/microsoft-teams/join-a-meeting</a> <i>Meeting ID: 297 636 144 490</i> <i>Meeting Password: 345BQf</i> <i>or by phone: +1 208-985-2810,,826046050#</i>

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

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

The purpose of this rule sets allowable fiduciary fund accounts and types, deposits of other funds, account designation, interest, and disbursement of funds. This rulemaking is consistent with the Governor’s [Executive Order 2020-01: Zero-Based Regulation](#). The proposed changes are to simplify, clarify, and reduce.

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

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: None.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 7, 2023 Idaho Administrative Bulletin, [Vol. 23-06, pages 56-57](#), under Docket No. 18-ZBRR-2301.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Weston Trexler, (208) 334-4214, [weston.trexler@doi.idaho.gov](mailto:weston.trexler@doi.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2023.

DATED this 3rd day of August, 2023.

Dean L. Cameron, Director  
Idaho Department of Insurance  
700 W. State Street, 3rd Floor  
P.O. Box 83720  
Boise, ID, 83720-0043  
Phone: (208) 334-4250  
Fax: (208) 334-4398.

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0602-2301  
(ZBR Chapter Rewrite)**

**18.06.02 – PRODUCERS HANDLING OF FIDUCIARY FUNDS**

**000. LEGAL AUTHORITY.**

~~Title 41, Chapter 2 and 10,~~ Sections 41-211, 41-1024, ~~and~~ 41-1025, 41-1042, and 41-1043, Idaho Code. (3-31-22)( )

**001. ~~TITLE AND SCOPE.~~**

~~01. Title.~~ IDAPA 18.06.02, ~~“Producers Handling of Fiduciary Funds.”~~ (3-31-22)

~~02. Scope.~~ This rule ~~will affect~~ applies to “producers,” including bail agents, who handle fiduciary funds ~~held in a fiduciary capacity.~~ (3-31-22)( )

**002. -- 009. (RESERVED)**

**010. DEFINITIONS.**

~~01. Cash Collateral.~~ All funds received as collateral by a producer in connection with a bail bond transaction in the form of cash, check, money order, other negotiable instrument, debit or credit card payment, or other electronic funds transfer, given as security to obtain a bail bond, as referenced in Section 41-1043, Idaho Code. (3-31-22)

~~021.~~ **Fiduciary Fund Account.** A financial account established to hold fiduciary funds as provided in Section 016. ( )

~~032.~~ **Fiduciary Funds.** All premiums, return premiums, premium taxes, funds as collateral, and fees received by a producer. Fiduciary funds include: ( )

~~a.~~ All funds paid to a producer for selling, soliciting or negotiating policies of insurance except for those fees recognized by statute as earned by the producer upon receipt which are payable to the producer and not the insurance company, pursuant to Section 41-1030, Idaho Code. ( )

b. All funds received by a producer from or on behalf of a client or premium finance company that are to be paid to an insurance company, its agents, or to the producer's employer. ( )

c. All funds provided to a producer by an insurance company or its agents that are to be paid to a policyholder or claimant pursuant to a contract of insurance. ( )

d. All checks or other negotiable instruments collected by the producer and made payable to the insurer. ( )

e. Cash collateral pursuant to Section 41-1043, Idaho Code. (3-31-22)( )

**043. Receive.** To collect or take actual or constructive possession of fiduciary funds. Receiving, includes but is not limited to, taking possession of money, checks, or other negotiable instruments. If fiduciary funds are in the form of a credit or offset on an account or other liability for the benefit of the consumer, without the producer actually taking possession of the funds, then constructive receipt is presumed to have occurred on the due date to the insurer. (3-31-22)( )

011. -- 013. (RESERVED)

014. **FIDUCIARY FUND ACCOUNT DEPOSIT AND REMITTANCE TIMING.**

**01. Payable to an Insurer.** Fiduciary funds that are in the form of a check or another negotiable instrument that is made payable to an insurer, as described in Subsection 010.03 are to be remitted to the insurer within the time period set forth specified in the insurer's terms and conditions producers contract, or if not specified, then within twenty-one fourteen (21/14) days of receipt. (3-31-22)

**02. Payable to a Policyholder.** Fiduciary funds that are in the form of a check or another negotiable instrument made payable to a policyholder or claimant as described in Subsection 010.02.e are to be remitted to the policyholder or claimant that person within fourteen (14) days of receipt or as specified by the terms of the policy of insurance policy language, the insurer, or applicable law. (3-31-22)( )

**03. All Other Fiduciary Funds.** All other fiduciary funds received by the producer, except as described under Subsections 014.01 and 014.02 are to be deposited into a fiduciary fund account according to the following schedule as follows: (3-31-22)( )

a. If in the form of cash, Cash: within seven (7) days of receipt, except that, when a producer holds fiduciary funds in the form of cash that the amount exceeds two thousand dollars (\$2,000), then such funds will be deposited within three (3) business days. (3-31-22)( )

b. If in the form of eChecks, money orders, other negotiable instruments, debit or credit card payments, or other electronic funds transfer; received or collected by the producer, within seven (7) days of receipt, except that the producer may remit such funds to the following: (3-31-22)

i. Another licensed producer or licensed business entity, subject to Subsection 014.03.b.; or (3-31-22)

ii. A person designated by the insurer who has the obligation to remit the fiduciary funds to the insurer subject to Subsection 014.03.b. (3-31-22)

**04. Documentation the Receipt of Fiduciary Funds.** A producer who receives fiduciary funds will document the receipt of those funds in sufficient detail to determine, at a minimum, the by recording date received, the name of the payee, and the amount received. If the producer receives For cash, including cash collateral, the producer will give the payee or a detailed receipt at the time of payment. The receipt needs to indicate ing that cash was received, the date received, the amount received, the payee's name, the payee's name, the purpose of payment, and any other information important to the transaction. The producer will maintain the receipt for a period of at least five (5) years. (3-31-22)( )



**015. DEPOSITING ~~OF~~ OTHER FUNDS IN FIDUCIARY ACCOUNT-VOLUNTARY DEPOSITS.**

A producer may deposit other additional funds for the sole purpose of: (3-31-22)

01. ~~Reserves for Return Premiums.~~ Establishing reserves for payment of return premiums. (3-31-22)( )

02. ~~Funds to Pay Bank Charges.~~ Advancing funds sufficient to pay bank charges. (3-31-22)( )

03. ~~Contingencies.~~ For any contingencies that may arise in the business of receiving ~~and~~ transmitting premium or return ing premium funds or cash collateral ~~(any such deposit is hereinafter referred to as "voluntary deposit").~~ (3-31-22)( )

**016. TYPES OF PERMITTED ACCOUNTS ~~PERMITTED.~~**

01. ~~Accounts in Federally Insured Financial Institutions~~ Federally Insured. A producer will maintain ~~the~~ fiduciary funds only in ~~checking accounts, demand accounts, savings accounts or other~~ federally insured accounts ~~in a federally insured financial institution.~~ (3-31-22)( )

02. ~~Exceed the Federally Insured Limits~~ Investments. If ~~such~~ funds held exceed the federally insured limits, then ~~in addition to Subsection 016.01, only those~~ the excess funds ~~that exceed the federally insured limits~~ may be deposited into ~~the following:~~ (3-31-22)( )

a. An investment account that invests ~~monies~~ only in United States government bonds, United States Treasury certificates or in federally guaranteed obligations; or (3-31-22)( )

b. Money market mutual funds registered with the SEC which are rated AAA by Moody's ~~or AAA by~~ S&P. (3-31-22)( )

~~03. Separate Fiduciary Funds Account.~~ Nothing in this rule ~~obligates a producer to maintain and hold fiduciary funds in his, her, or its, own separate fiduciary funds account. Each producer is responsible for compliance with the provisions of this rule even if fiduciary funds are maintained in a fiduciary funds account established by another affiliated producer.~~ (3-31-22)

**017. ACCOUNT DESIGNATION.**

~~013. Designation of a Fiduciary Fund.~~ A fiduciary fund account is so designated on the records of the financial institution. The account has a separate account number, a separate check register and its own checks displaying "Trust Fund Account" or similar designation on the face of each check. (3-31-22)( )

~~02. Trust Fund Account.~~ The phrase, "Trust Fund Account" ~~is displayed on the face of each check drawn on a fiduciary fund account or other similar designation as permitted by the financial institution to identify the checks as being from a fiduciary fund account.~~ (3-31-22)

**018. INTEREST EARNINGS.**

~~A fiduciary fund account may be interest bearing or an investment account in accordance with Section 016.~~

~~04. Interest.~~ The producer will maintain records ~~establishing the existence and amount~~ of any interest accrued. (3-31-22)( )

~~05. Affiliated Fiduciary Fund Account.~~ A producer ~~may maintain fiduciary funds in the fiduciary fund account of an affiliated producer. Each producer retains responsibility for compliance.~~ ( )

**017. -- 018. (RESERVED)**

**019. PERMISSIBLE DISTRIBUTION ~~OF FIDUCIARY FUNDS.~~**

Distributions from a fiduciary fund account are to only be made for the following purposes, and ~~in the manner stated:~~ (3-31-22)( )

01. **Remit Premiums.** ~~To~~Remit premiums to an insurer or an insurer's designee pursuant to a contract of insurance; (3-31-22)( )
02. **Return Premiums.** ~~To~~Return premiums to an insured or other person or entity entitled to the premiums; (3-31-22)( )
03. **Remit Surplus Lines Taxes and Stamping Fees.** ~~To~~Remit surplus lines taxes and stamping fees collected to the appropriate state; (3-31-22)( )
04. **Reimburse Voluntary Deposits.** ~~To~~Reimburse voluntary deposits made by the producer to the extent that the funds in the fiduciary account exceed the amount necessary to meet all fiduciary obligations; ~~only if~~the reimbursement ~~can will~~ be matched ~~and identified with the~~ to a previous voluntary deposit. (3-31-22)( )
05. **Transfer or Withdraw Accrued Interest.** ~~To~~transfer or withdraw accrued interest to the extent that fiduciary fund account funds exceed the amount necessary to meet all fiduciary obligations; ~~only if~~the reimbursement ~~can will~~ be matched ~~and identified with the~~ to a previous interest deposit by the financial institution. (3-31-22)( )
06. **Transfer or Withdraw Actual Commissions.** ~~To~~transfer or withdraw ~~actual~~ commissions and those earned fees ~~recognized as~~ earned by the producer, upon receipt, which are payable to the producer, only if the commissions and fees can be matched ~~and identified~~ with funds previously deposited in the fiduciary account. (3-31-22)( )
07. **Pay Charges Imposed.** ~~To~~pay charges imposed by the financial institution that directly relate to the operation and maintenance of the fiduciary funds account. (3-31-22)( )
08. **Transfer Funds.** ~~To~~transfer funds from one (1) fiduciary fund account to another fiduciary fund account. (3-31-22)( )
09. **Return Cash Collateral.** ~~To~~Return cash collateral to the person who deposited the cash collateral with the producer within fourteen (14) days of the date notice is received that the obligation, the satisfaction of which was secured by the cash collateral, has been discharged. (3-31-22)( )
10. **Convert Cash Collateral.** ~~To~~econvert cash collateral where the defendant or other responsible party fails to satisfy the obligation of the bail bond and the bail or obligation was not exonerated by the court but instead executed by the court, provided such conversion is compliant with the contract between the producer and the person who deposited the cash collateral. (3-31-22)( )

**020. -- 021. (RESERVED)**

**022. TIMELY DISBURSEMENT OF FIDUCIARY FUNDS.**

In addition to the requirements of Section 014, after receiving fiduciary funds, a producer: ( )

01. **Remits Premiums.** Remits premiums directly to an insurer or an insurer's designee within the time period set forth in the ~~insurer's terms and conditions~~ producer's contract, or if not specified, within fourteen (14) days of receipt; (3-31-22)( )
02. **Returns Money Received.** Returns to the payer the money received as a premium deposit which is retained by the producer or returned to the producer by the insurer to the payer by the earlier of: ( )
- a. Fourteen (14) days from the date the premium is received by the producer ~~from the insurer~~, or (3-31-22)( )
- b. Fourteen (14) days from the date the insurer notifies the insurance applicant that coverage has been denied if the producer retained the premium deposit. ( )

**03. Refund Received from the Insurer.** Issues a refund received from the insurer within fourteen (14) days by disbursing money to the insured or other party entitled thereto ~~by notifying the insured that the refund is being applied to an outstanding amount owed or to be owed by the insured.~~ If the producer is applying the refund to an outstanding amount owed by the insured, the producer obtains the insured's permission and provides the insured a detailed description of the amount owed to which the refund is being applied. (3-31-22)( )

**04. Dispute of Entitlement of Funds.** If there is a dispute as to entitlement of funds under Subsections 022.01 or 022.03, a producer notifies the parties of the dispute, seeks to resolve it, and documents the steps taken to resolve it. ( )

**05. Funds Held for More Than Ninety Days.** If ~~fiduciary~~ funds within the scope of Subsections 022.01 or 022.03 are held for more than ninety (90) days, the producer investigates to determine the entitlement to fiduciary funds and pays those fiduciary funds when due to the appropriate person in accordance with this section. (3-31-22)( )

**06. Return Cash Collateral.** Returns cash collateral ~~to the person who deposited the cash collateral with the producer~~ to the depositor within fourteen (14) ~~days of the date notice is received that the~~ after the obligation, ~~the satisfaction of which was secured by the cash collateral,~~ is discharged. (3-31-22)( )

**023. - 999. (RESERVED)**

**IDAPA 18 – DEPARTMENT OF INSURANCE**

**18.06.03 – RULES GOVERNING DISCLOSURE REQUIREMENTS FOR  
INSURANCE PRODUCERS WHEN CHARGING FEES**

**DOCKET NO. 18-0603-2301 (ZBR CHAPTER REPEAL)**

**NOTICE OF RULEMAKING – PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211 and 41-1030, Idaho Code.

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

<p><b>Wednesday, September 27, 2023 3:00 p.m. to 4:30 p.m. (MT)</b></p>
<p><i>In-person participation is available at:</i> <b>Department of Insurance 700 W. State St. 3rd Floor Boise, ID 83702</b></p> <p><i>Web meeting link:</i> <a href="https://www.microsoft.com/microsoft-teams/join-a-meeting">https://www.microsoft.com/microsoft-teams/join-a-meeting</a> <i>Meeting ID: 297 636 144 490 Meeting Password: 345BQf or by phone: +1 208-985-2810,,826046050#</i></p>

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

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

The purpose of this rule provides disclosure requirements when charging a fee to consumers. The Department is proposing to revoke this rule in its entirety.

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

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: None.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 7, 2023 Idaho Administrative Bulletin, [Vol. 23-06, pages 56-57](#), under Docket No. 18-ZBRR-2301.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Weston Trexler, (208) 334-4214, [weston.trexler@doi.idaho.gov](mailto:weston.trexler@doi.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2023.

DATED this 3rd day of August, 2023.

Dean L. Cameron, Director  
Idaho Department of Insurance  
700 W. State Street, 3rd Floor  
P.O. Box 83720  
Boise, ID, 83720-0043  
Phone: (208) 334-4250  
Fax: (208) 334-4398.

**IDAPA 18.06.03 IS BEING REPEALED IN ITS ENTIRETY**

## IDAPA 18 – DEPARTMENT OF INSURANCE

### 18.07.06 – RULES GOVERNING LIFE AND HEALTH REINSURANCE AGREEMENTS

#### DOCKET NO. 18-0706-2301 (ZBR CHAPTER REWRITE)

#### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211, 41-335, 41-510, 41-511, 41-512 and 41-514, Idaho Code.

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

<b>Wednesday, September 27, 2023 3:00 p.m. to 4:30 p.m. (MT)</b>
<i>In-person participation is available at:</i> <b>Department of Insurance 700 W. State St. 3rd Floor Boise, ID 83702</b>
<i>Web meeting link:</i> <a href="https://www.microsoft.com/microsoft-teams/join-a-meeting">https://www.microsoft.com/microsoft-teams/join-a-meeting</a> <i>Meeting ID: 297 636 144 490 Meeting Password: 345BQf or by phone: +1 208-985-2810,,826046050#</i>

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

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

The purpose of this rule sets standards for reinsurance agreements involving life insurance, annuities, or accident and sickness (disability) insurance in order that financial statements properly reflect business of the insurer. This rule is subject to Accreditation review. This rulemaking is consistent with the Governor's [Executive Order 2020-01: Zero-Based Regulation](#). The proposed changes are to simplify, clarify, and reduce.

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

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: None.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 7, 2023 Idaho Administrative Bulletin, [Vol. 23-06, pages 56-57](#), under Docket No. 18-ZBRR-2301.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Weston Trexler, (208) 334-4214, [weston.trexler@doi.idaho.gov](mailto:weston.trexler@doi.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2023.

DATED this 3rd day of August, 2023.

Dean L. Cameron, Director  
Idaho Department of Insurance  
700 W. State Street, 3rd Floor  
P.O. Box 83720  
Boise, ID, 83720-0043  
Phone: (208) 334-4250  
Fax: (208) 334-4398.

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0706-2301**  
**(ZBR Chapter Rewrite)**

**18.07.06 – ~~RULES GOVERNING~~ LIFE AND HEALTH REINSURANCE AGREEMENTS**

**000. LEGAL AUTHORITY.**

~~Title 41, Chapters 2, 3, and 5, Sections 41-211, 41-335, 41-510, 41-511, 41-512 and 41-514, Idaho Code.~~

~~(3-31-22)( )~~

**001. ~~TITLE, PURPOSE AND SCOPE.~~**

~~**01. Title.** IDAPA 18.07.06, “Rules Governing Life and Health Reinsurance Agreements.” (3-31-22)~~

~~**02. Purpose.** To set forth standards for Reinsurance Agreements involving life insurance, annuities, or accident and sickness insurance (disability) in order that the financial statements of the life and health and property and casualty insurers writing health business and utilizing such agreements properly reflect the financial condition of the ceding and assuming insurer. (3-31-22)~~

~~**a.** The Department recognizes that licensed insurers routinely enter into reinsurance agreements that yield legitimate relief to the ceding insurer from strain to surplus. (3-31-22)~~

~~**b.** However, it is improper for a licensed insurer, in the capacity of ceding insurer, to enter into reinsurance agreements for the principal purpose of producing significant surplus aid for the ceding insurer, typically on a temporary basis, while not transferring all of the significant risks inherent in the business being reinsured. In substance or effect, the expected potential liability to the ceding insurer remains basically unchanged by the reinsurance transaction, notwithstanding certain risk elements in the reinsurance agreement, such as catastrophic mortality or extraordinary survival. The terms of such agreements referred to herein and described in Section 011 violate Idaho Code Sections 41-1306, 41-515, 41-308(3), 41-327 and 41-3309. (3-31-22)~~

~~**03. Applicability.** This rule applies to all domestic life and accident and health insurers and to all other licensed life and accident and health insurers ~~that are~~ not subject to ~~a~~ substantially similar rules in their domiciliary state. ~~This rule also s~~Similarly, ~~it~~ applies to licensed property and casualty insurers with respect to their accident and health business. This rule does not apply to assumption reinsurance or yearly renewable term reinsurance. (3-31-22)( )~~

**002. PURPOSE.**

Insurers routinely enter into reinsurance agreements that yield legitimate surplus relief to the ceding insurer. However, it is improper for a ceding insurer to enter into reinsurance agreements for the principal purpose of producing significant surplus aid, typically on a temporary basis, while not transferring all the significant risks inherent in the business being reinsured. In substance or effect, the expected potential liability to the ceding insurer remains basically unchanged by the reinsurance transaction, notwithstanding certain risk elements in the reinsurance agreement, such as catastrophic mortality or extraordinary survival. The terms of such agreements referred to herein and described in Section 011 of this rule violate Sections 41-1306, 41-515, 41-308(3), 41-327, and 41-3309, Idaho Code. ( )

**002~~3~~. -- 010. (RESERVED)**

**011. ACCOUNTING REQUIREMENTS.**

**01. ~~Standards for Credits on Financial Statements.~~** No insurer ~~subject to this rule~~ will, for reinsurance ceded, reduce any liability or establish any asset in any financial statement filed with the Department if, by the terms of the reinsurance agreement, in substance or effect, any of the following conditions exist: (3-31-22)( )

**a.** Renewal expense allowances provided or to be provided to the ceding insurer by the reinsurer in any accounting period, are not sufficient to cover anticipated allocable renewal expenses of the ceding insurer on the portion of the business reinsured, unless a liability is established for the present value of the shortfall (using assumptions equal to the applicable statutory reserve basis on the business reinsured). Those expenses include commissions, premium taxes and direct expenses including, but not limited to, billing, valuation, claims and maintenance expected by the company at the time the business is reinsured; ( )

**b.** The ceding insurer can be deprived of surplus or assets at the reinsurer's option or automatically upon the occurrence of some event, such as the insolvency of the ceding insurer, except that termination of the reinsurance agreement by the reinsurer for nonpayment of reinsurance premiums or other amounts due, such as modified coinsurance reserve adjustments, interest and adjustments on funds withheld, and tax reimbursements, will not be considered to be such a deprivation of surplus or assets; ( )

**c.** The ceding insurer needs to reimburse the reinsurer for negative experience under the reinsurance agreement, except that neither offsetting experience refunds against current and prior years' losses under the agreement nor payment by the ceding insurer of an amount equal to the current and prior years' losses under the agreement upon voluntary termination of in force reinsurance by the ceding insurer will be considered such a reimbursement to the reinsurer for negative experience. Voluntary termination does not include situations where termination occurs because of unreasonable provisions which allow the reinsurer to reduce its risk under the agreement. An example of such a provision is the right of the reinsurer to increase reinsurance premiums or risk and expense charges to excessive levels forcing the ceding company to prematurely terminate the reinsurance treaty; ( )

**d.** The ceding insurer needs to, at specific points in time scheduled in the agreement, terminate or automatically recapture all or part of the reinsurance ceded; ( )

**e.** The reinsurance agreement involves the possible payment by the ceding insurer to the reinsurer of amounts other than from income realized from the insured policies. For example, it is improper for a ceding company to pay reinsurance premiums, or other fees or charges to a reinsurer which are greater than the direct premiums collected by the ceding company; ( )

**f.** The treaty does not transfer all of the significant risk inherent in the business being reinsured. The following table identified for a representative sampling of products or type of business, the risks which are considered to be significant. For products not specifically included, the risks determined to be significant will be consistent with this table. (3-31-22)

± Risk categories: (3-31-22)( )



- (+)i. Morbidity. ( )
- (-)ii. Mortality. ( )
- iii. Lapse. ~~This is t~~The risk that a policy ~~will~~ voluntarily terminates prior to the recoupment of a statutory surplus strain experienced at issue of the policy. (3-31-22)( )
- iiiv. Credit Quality (C1). ~~This is t~~The risk that invested assets supporting the reinsured business ~~will~~ decrease in value. The main hazards are that assets ~~will~~ default or ~~that~~ there will be a decrease in earning power. It excludes market value declines due to changes in interest rate. (3-31-22)( )
- iv. Reinvestment (C3). ~~This is t~~The risk that interest rates ~~will~~ fall and funds reinvested (coupon payments or monies received upon asset maturity or call) will therefore earn less than expected. If asset durations are less than liability durations, the mismatch will increase. (3-31-22)( )
- vi. Disintermediation (C3). ~~This is t~~The risk that interest rates rise and policy loans and surrenders increase or maturing contracts do not renew at anticipated rates ~~of renewal~~. If asset durations are greater than the liability durations, the mismatch will increase. Policyholders will move their funds into new products offering higher rates. The company may have to sell assets at a loss to provide for these withdrawals.

**Risk Category**

Key: + - Significant  
 0 - Insignificant

	i.	ii.	iii.	iv.	v.	vi.
Health Insurance - other than LTC/LTD*	+	0	+	0	0	0
Health Insurance - LTC/LTD*	+	0	+	+	+	0
Immediate Annuities	0	+	0	+	+	0
Single Premium Deferred Annuities	0	0	+	+	+	+
Flexible Premium Deferred Annuities	0	0	+	+	+	+
Guaranteed Interest Contracts	0	0	0	+	+	+
Other Annuity Deposit Business	0	0	+	+	+	+
Single Premium Whole Life	0	+	+	+	+	+
Traditional Non-Par Permanent	0	+	+	+	+	+
Traditional Non-Par Term	0	+	+	0	0	0
Traditional Par Permanent	0	+	+	+	+	+
Traditional Par Term	0	+	+	0	0	0
Adjustable Premium Permanent	0	+	+	+	+	+
Indeterminate Premium Permanent	0	+	+	+	+	+
Universal Life Flexible Premium	0	+	+	+	+	+
Universal Life Fixed Premium	0	+	+	+	+	+
Universal Life Fixed Premium dump-in premiums allowed	0	+	+	+	+	+

\*LTC = Long Term Care Insurance  
 \*LTD = Long Term Disability Insurance

(3-31-22)( )

g. Significant Risk. ( )

i. The credit quality, reinvestment, or disintermediation risk is significant for the business reinsured and the ceding company does not (other than ~~for the classes of business those~~ excepted in ~~IDAPA 18.07.06.Subsection~~ 011.01.g.ii.) either transfer the underlying assets to the reinsurer or legally segregate such assets in a trust or escrow account or otherwise establish a mechanism satisfactory to the Director which legally segregates, by contract or contract provision, the underlying assets. (3-31-22)( )

ii. Notwithstanding the requirements of ~~IDAPA 18.07.06.Subsection~~ 011.01.g.i., the assets supporting the reserves for the following classes of business and any classes of business which do not have a significant credit quality, reinvestment or disintermediation risk may be held by the ceding company without segregation of such assets:

- Health Insurance - LTC/LTD
- Traditional Non-Par Permanent
- Traditional Par Permanent
- Adjustable Premium Permanent
- Indeterminate Premium Permanent
- Universal Life Fixed Premium (no dump-in premiums allowed)

The associated formula for determining the reserve interest rate adjustment needs to use a formula that reflects the ceding company's investment earnings and incorporates all realized and unrealized gains and losses reflected in the statutory statement. The following is an acceptable formula:

$$\text{Rate} = \frac{2(I + CG)}{X + Y - I - CG}$$

Where: "I" is the net investment income as reported in Annual Statement

"CG" is capital gains less capital losses as reported in Annual Statement

"X" is the current year cash and invested assets plus investment income due and accrued less borrowed money as reported in Annual Statement

"Y" is the same as X but for the prior year ( )

h. Settlements are made less frequently than quarterly or payments due from the reinsurer are not made in cash within ninety (90) days of the settlement date. ( )

i. The ceding insurer needs to make representations or warranties not reasonably related to the business being reinsured. ( )

j. The ceding insurer needs to make representations or warranties about future performance of the business being reinsured. ( )

k. ~~The r~~Reinsurance agreements ~~is~~ entered ~~into~~ for the principal purpose of producing significant surplus aid for the ceding insurer, typically on a temporary basis, while not transferring all ~~of~~ the significant risks inherent in the business reinsured and, in substance or effect, the expected potential liability to the ceding insurer remains basically unchanged. (3-31-22)( )

**02. Director's Approval.** An insurer ~~subject to this Rule~~ may, with the prior Director approval ~~of the Director~~, take such reserve credit or establish such asset as the Director ~~may~~ deems consistent with ~~the Insurance Code and Rules~~ law, including actuarial interpretations or standards adopted by the Department. (3-31-22)(    )

**03. Filing ~~of Reinsurance~~ Agreements.** (3-31-22)(    )

**a.** Agreements entered into after the effective date of this Rule which involve the reinsurance of business issued prior to the effective date of the agreements, along with any subsequent amendments thereto, will be filed by the ceding company with the Director within thirty (30) days from its date of execution. Each filing will include data detailing the financial impact of the transaction. The ceding insurer's actuary who signs the financial statement actuarial opinion with respect to valuation of reserves will consider this Rule and any applicable actuarial standards of practice when determining the proper credit in financial statements filed with this Department. The actuary should maintain adequate documentation and be prepared upon request to describe the actuarial work performed for inclusion in the financial statements and to demonstrate that such work conforms to this Rule. (3-31-22)(    )

**b.** Any increase in surplus net of federal income tax resulting from arrangements described in Subsection 011.03.a. will be identified separately on the insurer's statutory financial statement as a surplus item (aggregate write-ins for gains and losses in surplus in the Capital and Surplus Account line of the Annual Statement) and recognition of the surplus increase as income will be reflected on a net of tax basis in the "Reinsurance ceded" line of the annual statement as earnings emerge from the business reinsured. (    )

**i.** ~~For example: On the last day of calendar year N, company XYZ pays a twenty (\$20) million initial commission and expense allowance to company ABC for reinsuring an existing block of business. Assuming a thirty-four percent (34%) tax rate, the net increase in surplus at inception is thirteen point two (\$13.2) million (twenty (\$20) million—six point eight (\$6.8) million) which is reported on the "Aggregate write-ins for gains and losses in surplus" line in the Capital and Surplus account. Six point eight (\$6.8) million (thirty-four (34%) of twenty (\$20) million) is reported as income on the "Commissions and expense allowances on reinsurance ceded" line of the Summary of Operations.~~ (3-31-22)

**ii.** ~~At the end of year N+1 the business has earned four (\$4) million. ABC has paid point five (\$.5) million in profit and risk charges in arrears for the year and has received a one million (\$1) million experience refund. Company ABC's annual statement would report one point six five (\$1.65) million (sixty-six percent (66%) of four (\$4) million—one (\$1) million—point five (\$.5) million) up to a maximum of thirteen point two (\$13.2) million) on the "Commissions and expense allowance on reinsurance ceded" line of the Summary of Operations, and one point sixty five (\$1.65) million on the "Aggregate write-ins for gains and losses in surplus" line of the Capital and Surplus account. The experience refund would be reported separately as a miscellaneous income item in the Summary of Operations.~~ (3-31-22)

**012. WRITTEN AGREEMENTS.**

**01. Execution Date.** No reinsurance agreement or amendment there to ~~any agreement~~ may be used to reduce any liability or to establish any asset in any financial statement filed with the Department, unless the agreement, amendment or a binding letter of intent has been duly executed by both parties no later than the "as of date" of the financial statement. (3-31-22)(    )

**02. Letter of Intent.** In the case of a letter of intent, a reinsurance agreement or an amendment there to ~~a reinsurance agreement~~ needs to be executed within a reasonable period of time, not exceeding ninety (90) days from the execution date of the letter of intent, ~~in order~~ for credit to be granted for the reinsurance ceded. (3-31-22)(    )

**03. Requisite Provisions.** The reinsurance agreement will contain provisions that provide ~~that~~: (3-31-22)(    )

**a.** The agreement ~~will~~ constitutes the entire agreement between the parties with respect to the business being reinsured thereunder and that there are no understandings between the parties other than as expressed in the agreement; and (3-31-22)(    )

**b.** Any change or modification to the agreement will be null and void unless made by amendment to the agreement and signed by both parties. ( )

**013. EXISTING AGREEMENTS.**

Insurers ~~subject to this rule~~ will not ~~be allowed to~~ recognize any reserve credits or assets established with respect to reinsurance agreements entered into prior to the effective date of this rule which, under the provisions of this rule would not be entitled to recognition of the reserve credits or assets; provided, however, that the reinsurance agreements will have been in compliance with laws or rules in existence immediately preceding the effective date of this rule. ~~(3-31-22)~~( )

**014. -- 999. (RESERVED)**

**IDAPA 18 – DEPARTMENT OF INSURANCE**  
**18.07.10 – CORPORATE GOVERNANCE ANNUAL DISCLOSURE**  
**DOCKET NO. 18-0710-2301 (ZBR CHAPTER REWRITE)**  
**NOTICE OF RULEMAKING – PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Title 41, Chapters 2 and 64, Idaho Code.

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

<b>Wednesday, September 27, 2023</b> <b>3:00 p.m. to 4:30 p.m. (MT)</b>
<i>In-person participation is available at:</i> <b>Department of Insurance</b> <b>700 W. State St. 3rd Floor</b> <b>Boise, ID 83702</b>
<i>Web meeting link:</i> <a href="https://www.microsoft.com/microsoft-teams/join-a-meeting">https://www.microsoft.com/microsoft-teams/join-a-meeting</a> <i>Meeting ID: 297 636 144 490</i> <i>Meeting Password: 345BQf</i> <i>or by phone: +1 208-985-2810,,826046050#</i>

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

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

The purpose of this rule sets procedures for filing and required content of the Corporate Governance Annual Disclosure (CGAD), necessary to carry out the provisions of Title 41, Chapter 64, Idaho Code. This rule is subject to Accreditation review. This rulemaking is consistent with the Governor's [Executive Order 2020-01: Zero-Based Regulation](#). The proposed changes are to simplify, clarify, and reduce.

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

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: None.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 7, 2023 Idaho Administrative Bulletin, [Vol. 23-06, pages 56-57](#), under Docket No. 18-ZBRR-2301.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Weston Trexler, (208) 334-4214, [weston.trexler@doi.idaho.gov](mailto:weston.trexler@doi.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2023.

DATED this August 3, 2023.

Dean L. Cameron, Director  
Idaho Department of Insurance  
700 W. State Street, 3rd Floor  
P.O. Box 83720  
Boise, ID, 83720-0043  
Phone: (208) 334-4250  
Fax: (208) 334-4398

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0710-2301**  
**(ZBR Chapter Rewrite)**

**18.07.10 – CORPORATE GOVERNANCE ANNUAL DISCLOSURE**

**000. LEGAL AUTHORITY.**

~~Title 41, Chapters 2 and 64, Sections 41-211 and 41-6404(2),~~ Idaho Code. (3-31-22)(    )

**001. ~~TITLE AND SCOPE.~~**

~~01. Title.~~ This rule is titled IDAPA 18.07.10, “Corporate Governance Annual Disclosure.” (3-31-22)

~~02. Scope.~~ This rule ~~sets forth~~ establishes procedures for filing ~~and the necessary~~ contents of the Corporate Governance Annual Disclosure (CGAD) ~~to carry out the provisions of per~~ Title 41, Chapter 64, Idaho Code. (3-31-22)(    )

**~~002. INCORPORATION BY REFERENCE.~~**

~~The most recent National Association of Insurance Commissioners (NAIC) Financial Analysis Handbook (2016 Annual / 2017 Quarterly edition) is incorporated by reference into IDAPA 18.07.10.~~ (3-31-22)

**003~~2~~ – 009. (RESERVED)**

**010. DEFINITIONS.**

**01. Senior Management.** Any corporate officer responsible for reporting information to the board of directors at regular intervals or providing this information to shareholders or regulators ~~and will, including, for example and~~ without limitation, ~~the chief executive officer (CEO), chief financial officer (CFO), chief operations officer (COO), chief procurement officer (CPO), chief legal officer (CLO), chief information officer (CIO), chief technology officer (CTO), chief revenue officer (CRO), chief visionary officer (CVO), or any other~~ all chief or “C” level executives. (3-31-22)(    )

**011. FILING PROCEDURES.**

**01. Filing Deadline.** An insurer, or the insurance group of which the insurer is a member, needs to file a CGAD by Title 41, Chapter 64, Idaho Code, no later than June 1 of each calendar year, submit to the director a CGAD that contains the information described in Section 012 of this rule. (3-31-22)

~~02. Signature. The CGAD needs to include a signature of the insurer's or insurance group's chief executive officer or corporate secretary attesting to the best of that individual's belief and knowledge that the insurer or insurance group has implemented the corporate governance practices and that a copy of the CGAD has been provided to the insurer's or insurance group's board of directors (board) or the appropriate committee thereof.~~ (3-31-22)

~~031. Format. The insurer or insurance group will have has discretion regarding the to appropriately format for providing the information prescribed by this rule CGAD and is permitted to may customize the CGAD to provide the most relevant information necessary to permit for the director to gain an understanding of the corporate governance structure, policies and practices they utilized by the insurer or insurance group.~~ (3-31-22)( )

~~04. Providing Information. For purposes of completing the CGAD, the insurer or insurance group may choose to provide information on governance activities that occur at the ultimate controlling parent level, an intermediate holding company level or the individual legal entity level, depending upon how the insurer or insurance group has structured its system of corporate governance. The insurer or insurance group is encouraged to make the CGAD disclosures at the level at which the insurer's or insurance group's risk appetite is determined, or at which the earnings, capital, liquidity, operations, and reputation of the insurer are overseen collectively and at which the supervision of those factors are coordinated and exercised, or the level at which legal liability for failure of general corporate governance duties would be placed. If the insurer or insurance group determines the level of reporting based on these criteria, it will indicate which of the three criteria was used to determine the level of reporting and explain any subsequent changes in level of reporting.~~ (3-31-22)

~~052. Completion on Insurance Group Level. Notwithstanding Subsection 011.01, and as outlined in Per Section 41-6403(1), Idaho Code, if Idaho is not the lead state and the CGAD is completed at the insurance group level, then it needs to be filed with the lead state of for the group as determined by the procedures outlined in the most recent financial analysis handbook adopted by the NAIC. In these instances, a copy of the CGAD needs to will also be provided to the chief regulatory official of any state in which the insurance group has a domestic insurer, upon request.~~ (3-31-22)( )

~~063. Referencing. An insurer or insurance group may comply with this section by referencing other existing documents (e.g., Own Risk Solvency Assessment (ORSA) summary report, holding company form B or F filings, Securities and Exchange Commission (SEC) proxy statements, foreign regulatory reporting requirements, etc.) if the documents provide information that is comparable to the information contents described in Section 012. The insurer or insurance group will clearly reference the location of the relevant information within the CGAD and attach the referenced document if it is not already filed or available to the regulator director.~~ (3-31-22)( )

~~07. Filing of Amended Versions. Each year following the initial filing of the CGAD, the insurer or insurance group will file an amended version of the previously filed CGAD indicating where changes have been made. If no changes were made in the information or activities reported by the insurer or insurance group, the filing should so state.~~ (3-31-22)

## 012. CONTENTS OF CORPORATE GOVERNANCE ANNUAL DISCLOSURE.

The CGAD content will: ( )

~~01. Detail. The insurer or insurance group will bBe as descriptive as possible in completing the CGAD, with inclusion of attachments or example documents that are used in the governance process, since these that may provide a means to demonstrate the strengths of their governance framework and practices.~~ (3-31-22)( )

~~02. CGAD Considerations. The CGAD will dDescribe the insurer's or insurance group's corporate governance framework and structure including consideration of the following:~~ (3-31-22)( )

~~a. The board and various committees thereof ultimately responsible for overseeing the insurer or insurance group and the level(s) at which that oversight occurs (e.g., ultimate control level, intermediate holding company, legal entity, etc.). The insurer or insurance group will describe and discuss the rationale for the current board size and structure; and~~ (3-31-22)

**b.** The duties of the board and each of its significant committees and how they are governed (e.g., bylaws, charters, informal mandates, etc.), as well as how the board's leadership is structured, including a discussion of the roles of ~~chief executive officer~~ (CEO) and chairman of the board within the organization. (3-31-22)( )

**03. Factors.** ~~The insurer or insurance group will d~~Describe the policies and practices of the most senior governing entity and significant committees thereof, including a discussion of the following factors: (3-31-22)( )

**a.** How the qualifications, expertise and experience of each board member meet the needs of the insurer or insurance group. ( )

**b.** How an appropriate amount of independence is maintained on the board and its significant committees. ( )

**c.** The number of meetings held by the board and its significant committees over the past year ~~as well as including~~ information on ~~director~~ board member attendance. (3-31-22)( )

**d.** How the insurer or insurance group identifies, nominates and elects members to the board and its committees. The discussion should include, ~~for example~~: (3-31-22)( )

i. Whether a nomination committee ~~is in place to~~ identify ies and select individuals for consideration. (3-31-22)( )

ii. Whether term limits are placed on ~~directors~~ board members. (3-31-22)( )

iii. How the election and re-election processes function. ( )

iv. Whether a board diversity policy is in place and if so, how it functions. ( )

**e.** The processes in place for the board to evaluate its performance and the performance of its committees, as well as any recent measures taken to improve performance (including any board or committee training programs that have been put in place). ( )

**04. Additional Factors.** ~~The insurer or insurance group will d~~Describe the policies and practices for directing senior management, including ~~a description of~~ the following factors: (3-31-22)( )

**a.** Any processes or practices (i.e., suitability standards) to determine whether officers and key persons in control functions have the appropriate background, experience and integrity to fulfill their prospective roles, including: ( )

i. Identification of the specific positions for which suitability standards have been developed and a description of the standards employed. ( )

ii. Any changes in an officer's or key person's suitability as outlined by the insurer 's or insurance group's standards and procedures to monitor and evaluate such changes. ( )

**b.** The insurer's or insurance group's code of business conduct and ethics, the discussion of which considers, ~~for example~~: (3-31-22)( )

i. Compliance with laws, rules, and regulations; and ( )

ii. Proactive reporting of any illegal or unethical behavior. ( )

**c.** The insurer's or insurance group's processes for performance evaluation, compensation and corrective action to ensure effective senior management throughout the organization, including a description of the general objectives of significant compensation programs and what the programs are designed to reward. The description will include sufficient detail to allow the director to understand how the organization ensures that compensation programs do not encourage and/or reward excessive risk taking. ~~Elements to be discussed~~ This may



include, ~~for example~~:

(3-31-22)( )

- i. The board's role in overseeing management compensation programs and practices. ( )
  - ii. The various elements of compensation awarded in the insurer's or insurance group's compensation programs and how the insurer or insurance group determines and calculates the amount of each element of compensation paid; ( )
  - iii. How compensation programs are related to both company and individual performance over time; ( )
  - iv. Whether compensation programs include risk adjustments and how those adjustments are incorporated into the programs for employees at different levels; ( )
  - v. Any clawback provisions built into the programs to recover awards or payments if the performance measures upon which they are based are restated or otherwise adjusted; ( )
  - vi. Any other factors relevant in understanding how the insurer or insurance group monitors its compensation policies to determine whether its risk management objectives are met by incentivizing its employees. ( )
- d.** The insurer's or insurance group's plans for CEO and senior management succession. ( )

**05. Oversight.** ~~The insurer or insurance group will d~~ Describe the processes by which the board, its committees and senior management ensure an appropriate amount of oversight to the critical risk areas impacting the insurer's business activities, including a discussion of: (3-31-22)( )

- a.** How oversight and management responsibilities are delegated between the board, its committees and senior management; ( )
- b.** How the board is kept informed of the insurer's strategic plans, the associated risks, and steps that senior management is taking to monitor and manage those risks; ( )
- c.** How reporting responsibilities are organized for each critical risk area. The description should allow the director to understand the frequency at which information on each critical risk area is reported to and reviewed by senior management and the board. This description may include, ~~for example~~, the following critical risk areas of the insurer: (3-31-22)( )

- i. Risk management processes (An ORSA summary report ~~filer may refer to its ORSA summary report pursuant to~~, if filed under Title 41, Chapter 63, Idaho Code, may be referenced per Subsection 011.01 of these rules); (3-31-22)( )

- ii. Actuarial function; ( )
- iii. Investment decision-making processes; ( )
- iv. Reinsurance decision-making processes; ( )
- v. Business strategy/finance decision-making processes; ( )
- vi. Compliance function; ( )
- vii. Financial reporting/internal auditing; and ( )
- viii. Market conduct decision-making processes. ( )

**013. – 999. (RESERVED)**

**IDAPA 18 – DEPARTMENT OF INSURANCE**  
**18.08.01 – ADOPTION OF THE INTERNATIONAL FIRE CODE**  
**DOCKET NO. 18-0801-2301 (ZBR CHAPTER REWRITE)**  
**NOTICE OF RULEMAKING – PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211 and 41-253, Idaho Code.

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

<b>Wednesday, September 27, 2023</b> <b>3:00 p.m. to 4:30 p.m. (MT)</b>
<i>In-person participation is available at:</i> <b>Department of Insurance</b> <b>700 W. State St. 3rd Floor</b> <b>Boise, ID 83702</b>
<i>Web meeting link:</i> <a href="https://www.microsoft.com/microsoft-teams/join-a-meeting">https://www.microsoft.com/microsoft-teams/join-a-meeting</a> <i>Meeting ID: 297 636 144 490</i> <i>Meeting Password: 345BQf</i> <i>or by phone: +1 208-985-2810,,826046050#</i>

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

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

The purpose of this rule adopts the International Fire Code and edits by the State Fire Marshal, such as the minimum standard for the protection of life and property from fire and explosion in the State of Idaho. This rulemaking is consistent with the Governor’s [Executive Order 2020-01: Zero-Based Regulation](#). The proposed changes are to simplify, clarify, and reduce.

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

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: None.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 7, 2023 Idaho Administrative Bulletin, [Vol. 23-06, pages 56-57](#), under Docket No. 18-ZBRR-2301.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Weston Trexler, (208) 334-4214, [weston.trexler@doi.idaho.gov](mailto:weston.trexler@doi.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2023.

DATED this 3rd day of August, 2023.

Dean L. Cameron, Director  
Idaho Department of Insurance  
700 W. State Street, 3rd Floor  
P.O. Box 83720  
Boise, ID, 83720-0043  
Phone: (208) 334-4250  
Fax: (208) 334-4398.

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0801-2301**  
**(ZBR Chapter Rewrite)**

**18.08.01 – ADOPTION OF THE INTERNATIONAL FIRE CODE**

**000. LEGAL AUTHORITY.**

Title 41, Chapter 2, Idaho Code.

( )

**001. ~~TITLE AND SCOPE.~~**

~~01. Title. IDAPA 18.08.01, “Adoption of the International Fire Code.”~~

~~(3-31-22)~~

~~02. Scope. This rule specifies the minimum standards for the protection of life and property from fire and explosion in Idaho.~~ Pursuant to the authority provided by Section 41-253, Idaho Code, the State Fire Marshal adopts the International Fire Code (IFC) as the minimum standard for the protection of life and property from fire and explosion in the state of Idaho. All such editions and appendices will be adopted in accordance with Section 67-5229, Idaho Code. Copies of the IFC are available for public inspection at the State Fire Marshal’s Office, or for purchase from the International Code Council by emailing customersuccess@iccsafe.org or calling 1-800-786-4452.

~~(3-31-22)~~( )

**002. -- 009. (RESERVED)**

**010. CONSTRUCTION AND DESIGN PROVISIONS, IFC SECTION 102.1, ~~INTERNATIONAL FIRE CODE.~~**

Delete Item No. 3 ~~of from~~ Section 102.1, ~~International Fire Code.~~

~~(3-31-22)~~( )

**011. DEPARTMENT OF FIRE PREVENTION, IFC SECTION 103.2 -- APPOINTMENTS, ~~INTERNATIONAL FIRE CODE.~~**

Delete ~~the following language in from s~~Section 103.2 ~~of the International Fire Code.~~: “~~..~~ and the fire code official shall not be removed from office except for cause and after full opportunity to be heard on specific and relevant charges by and before the appointing authority.”

~~(3-31-22)~~( )

**012. GENERAL AUTHORITY AND RESPONSIBILITIES, IFC SECTION 104.1, ~~INTERNATIONAL FIRE CODE.~~**

Add ~~the following second paragraph~~ to Section 104.1, General, ~~International Fire Code~~: (3-31-22)( )

- 01. Fire Chief's Authority.** The fire chief is authorized to administer and enforce this code. Under the chief's direction, the fire department is authorized to enforce all ordinances of the jurisdiction ~~pertaining to about~~: (3-31-22)( )
- a. ~~The prevention of~~ **Preventing** fires; (3-31-22)( )
  - b. ~~The suppression or extinguishment of~~ **Suppressing or extinguishing** dangerous or hazardous fires; (3-31-22)( )
  - c. ~~The s~~Storage, use and handling of hazardous materials; (3-31-22)( )
  - d. ~~The installation and maintenance of~~ **Installing and maintaining** automatic, manual and other private fire alarm systems and fire- extinguishing equipment; (3-31-22)( )
  - e. ~~The maintenance and regulation of~~ **Maintaining and regulating** fire escapes; (3-31-22)( )
  - f. ~~The maintenance of~~ **Maintaining** fire protection and ~~the elimination of~~ **eliminating** fire hazards on land and in buildings, and other property, including those under construction; (3-31-22)( )
  - g. ~~The maintenance of~~ **Maintaining** means of egress; and (3-31-22)( )
  - h. ~~The investigation of~~ **Investigating** the cause, origin and circumstances of fire and unauthorized releases of hazardous materials; ~~For authority related to control and investigation of~~ **on controlling and investigating** emergency scenes, see Section 104.11. (3-31-22)( )

**013. -- 015. (RESERVED)**

**016. PERMITS REQUIRED, IFC SECTION 105.1.1, INTERNATIONAL FIRE CODE.**  
~~Delete~~ **Replace** "the required permit" ~~from the last sentence of in~~ Section 105.1.1 ~~of the International Fire Code and~~ **add, with** "a permit if needed by the authority having jurisdiction." (3-31-22)( )

**017. VIOLATION PENALTIES, IFC SECTION 110.4, INTERNATIONAL FIRE CODE.**  
~~In the first sentence of~~ Section 110.4 ~~of the International Fire Code, delete, replace~~ "[SPECIFY OFFENCE], punishable by a fine of not more than [AMOUNT] dollars, or by imprisonment not exceeding [NUMBER OF DAYS], or both such fine and imprisonment" ~~and add the word with~~ "misdemeanor". (3-31-22)( )

**018. FAILURE TO COMPLY, IFC SECTION 112.4, INTERNATIONAL FIRE CODE.**  
~~In Delete~~ Section 112.4, ~~International Fire Code, delete this entire section.~~ (3-31-22)( )

**019. IFC SECTION 202, INTERNATIONAL FIRE CODE.**  
~~Regarding Section 202, IFC:~~ ( )

**01. Fire Code Official.** Add "or as appropriate the Idaho State Fire Marshal" ~~to the end of the definition for~~ FIRE CODE OFFICIAL ~~in Section 202 of the International Fire Code.~~ (3-31-22)( )

**02. Driveway.** Add "DRIVEWAY. A vehicular ingress and egress route that serves no more than five (5) single family dwellings, not including accessory structures." ( )

**03. Fire Station.** Add "FIRE STATION, A building, or ~~portion part~~ of a building that provides, at a minimum, all weather protection for fire apparatus. Temperatures inside the building used for this purpose need to be maintained at above thirty-two (32) degrees Fahrenheit." (3-31-22)( )

**020. SKY LANTERNS, IFC SECTION 308.1.6.3, INTERNATIONAL FIRE CODE.**

**01. Untethered Sky lanterns.** ~~To section 308.1.6.3 delete the sentence: "A person cannot release or~~

~~cause to be released an untethered sky lantern.” (3-31-22)~~

~~02. Sky lantern permit. To Replace sSection 308.1.6.3 add the following with: “A person cannot release or cause to be released a sky lantern, tethered or untethered without obtaining a permit, if required by the fire code or jurisdiction. When, in the opinion of the fire code official, the release of sky lanterns, tethered or untethered, constitutes a danger to persons or property, based on the current weather conditions, knowledge of topography, vegetation, or any other reasonable factor, is authorized to require additional safeguards prior to the release of sky lanterns. The fire code official may suspend, revoke, postpone, or prohibit the release of any sky lantern at any time.” (3-31-22)( )~~

**021. MOBILE FOOD PREPARATION VEHICLES, IFC SECTION 319, ~~INTERNATIONAL FIRE CODE.~~**

~~01. Permit Required. ToReplace Section 319.2, International Fire Code, add permissive language with: “IF REQUIRED BY A LOCAL JURISDICTION, permits may be required as set forth in Section 105.6.” (3-31-22)( )~~

~~02. Fuel Gas Systems. To Section 319.10.3, International Fire Code, add permissive language at beginning: “IF REQUIRED BY THE LOCAL JURISDICTION,” and at end: LP gas containers installed on the vehicle and fuel gas piping systems may be inspected annually by an approved inspection agency or a company that is registered with the U.S. Department of Transportation to requalify LP gas cylinders, ... Upon satisfactory inspection, the approved inspection agency shall affix a tag on the fuel gas system or within the vehicle indicating the name of the inspection agency and the date of satisfactory inspection, “OR PROVIDE DOCUMENTATION OF INSPECTION UPON REQUEST OF THE LOCAL JURISDICTION.” (3-31-22)( )~~

**022. IFC CHAPTER 5 FIRE SERVICE FEATURES.**  
~~Make the following changes withinRegarding Chapter 5 of the International Fire Code; (3-31-22)( )~~

~~01. Section 501. ( )~~

~~a. To sSection 501.3, after the phrase, “Construction documents for proposed,” add the word “driveways.” (3-31-22)( )~~

~~b. To sSection 501.4, after the phrase, “When fire apparatus access roads,” add the word “driveways.” (3-31-22)( )~~

~~02. Section 502. (3-31-22)~~

~~a. To sSection 502, add the following word “DRIVEWAY?” and FIRE STATION.” (3-31-22)( )~~

~~b. To section 502, add the words “FIRE STATION.” (3-31-22)~~

~~03. Section 503. ( )~~

~~a. To sSection 503 heading, add the words, “AND DRIVEWAYS” to the section heading. (3-31-22)( )~~

~~b. To sSection 503.1.1, add the following sentence, “Driveways need to be provided and maintained in accordance with Sections 503.1.1 through 503.1.3.” (3-31-22)( )~~

~~c. To sSection 503.6, delete the sentence, “The installation of security gates across a fire apparatus access road shall be approved by the fire chief code official.” (3-31-22)( )~~

~~d. Add the following section, “503.7 Driveways. Need be provided when any portion part of an exterior wall of the first story of a building is located more than 150 feet (45720mm) from a fire apparatus access road. Driveways will provide a minimum unobstructed width of 12 feet (3658mm) and a minimum unobstructed height of 13 feet 6 inches (4115mm). Driveways in excess of over 150 feet (45720mm) in length need to be provided~~

with will have turnarounds. Driveways ~~in excess of over~~ 200 feet (60960mm) ~~in length long~~ and less than 20 feet (6096mm) ~~in width wide~~ may require need turnouts in addition to turnarounds.” (3-31-22)(    )

e. Add ~~the following section~~, “503.7.1 Limits. A driveway cannot serve ~~in excess of more than~~ five single family dwellings.” (3-31-22)(    )

f. Add ~~the following section~~, “503.7.2 Turnarounds. Driveway turnarounds ~~need to will~~ have ~~an inside turning radius of not less than at least a~~ 30 feet (9144mm) inside turning radius and ~~an outside turning radius of not less than at least a~~ 45 feet (13716mm) outside turning radius. Driveways that connect with an access road or roads at more than one point may be ~~considered as having deemed to have~~ a turnaround if all directional changes ~~of direction~~ meet the radius requirements for driveway turnarounds.” (3-31-22)(    )

g. Add ~~the following section~~, “503.7.3 Turnouts. Where a man-made or natural feature obstructs the line of sight along a driveway ~~is obstructed by a man made or natural feature~~, turnouts need to will be located as may be needed by the fire code official ~~to provide~~ for safe passage of vehicles. Driveway turnouts will be of an all-weather road surface at least 10 feet (3048mm) wide and 30 feet (9144mm) long.” (3-31-22)(    )

h. Add ~~the following section~~, “503.7.4 Bridge Load Limits. Vehicle load limits will be posted at both entrances to bridges on driveways and private roads. The fire code official will set. ~~D~~esign loads for bridges ~~will be established by the fire code official.~~” (3-31-22)(    )

i. Add ~~the following section~~, “503.7.5 Address markers. All ~~buildings need to~~ of a building’s driveway entrances will have a permanently posted address, ~~which will be placed at each driveway entrance and be that is~~ visible from both directions of travel along the road. ~~In all cases, t~~The address needs to will always be posted at the beginning of construction and maintained thereafter. The address need be visible and legible ~~from the road on which~~ the road on which the address is located. Address signs along one-way roads will be visible from both the intended direction of travel and the opposite direction. Where ~~multiple address’s are required at~~ a single driveway has multiple addresses, they need to be mounted on a single post, ~~and with~~ additional signs ~~will be to~~ posted at locations where driveways divide.” (3-31-22)(    )

j. Add ~~the following section~~, “503.7.6 Grade. ~~The gradient for driveways cannot~~ Driveway gradients may not exceed 10% ~~percent~~ unless approved by the fire code official.” (3-31-22)(    )

k. Add ~~the following section~~, “503.7.7 Security Gates. Where security gates are installed, they ~~need to will~~ have an approved means of emergency operation. The security gates ~~and emergency operation~~ will be maintained operational at all times.” (3-31-22)(    )

l. Add ~~the following section~~, “503.7.8 Surface. Driveways need to will be designed and maintained to support the imposed loads of local responding fire apparatus and ~~will~~ be surfaced ~~as to provide allow~~ all weather driving ~~capabilities.~~” (3-31-22)(    )

04. Section 507. ~~To Replace s~~Section 507.2 ~~Type of water supply, delete the existing language and add the following, with:~~ “A water supply will consist of water delivered by fire apparatus, reservoirs, pressure tanks, elevated tanks, water mains or other sources approved by the fire code official capable of providing the needed fire flow. Exception. The water supply prescribed by this code needs to apply to structures served by a municipal fire department or a fire protection district and within ten miles (16093m) of a responding fire station.” (3-31-22)(    )

023. -- 026. (RESERVED)

027. ALTERNATIVE AUTOMATIC FIRE-EXTINGUISHING SYSTEMS, IFC SECTION 904.1.1, INTERNATIONAL FIRE CODE.

Add ~~the following language~~ to the ~~beginning start~~ of ~~s~~Section 904.1.1, ~~of the International Fire Code,~~: “If prescribed by the authority having jurisdiction,”. (3-31-22)(    )

028. PORTABLE FIRE EXTINGUISHERS, IFC SECTION 906.2.1, INTERNATIONAL FIRE CODE.

Add ~~the following language~~ to the ~~beginning start~~ of ~~s~~Section 906.2.1, ~~of the International Fire Code,~~: “If prescribed by the authority having jurisdiction,”. (3-31-22)(    )

029. FIRE ALARM AND DETECTION SYSTEMS, **IFC SECTION 907.1**, ~~INTERNATIONAL FIRE CODE.~~

Add to Section 907-1: “Notification Devices. When fire alarm systems not needed by the International Fire Code are installed, the notification devices need to meet the minimum design and installation requirements for systems that are prescribed by this code. Intent: (Non-prescribed fire alarm systems will provide the same level of occupant notification that prescribed systems provide).” (3-31-22)( )

030. CONSTRUCTION REQUIREMENTS FOR EXISTING BUILDINGS, **IFC SECTION 1101.1**, ~~INTERNATIONAL FIRE CODE.~~

Add the following language to the end of sSection 1101.1 of the International Fire Code: “only, if in the opinion of the fire code official, they constitute a distinct hazard to life or property.” (3-31-22)( )

031. EXPLOSIVES AND FIREWORKS, **IFC CHAPTER 56**, ~~INTERNATIONAL FIRE CODE.~~

Delete Sections 5601.1.3, 5601.2.2, 5601.2.3, 5601.2.4.1, 5601.2.4.2, and sSections 5608.2, 5608.2.1, and 5608.3 of the International Fire Code. (3-31-22)( )

032. -- 045. (RESERVED)

046. UNDERGROUND TANKS OUT OF SERVICE FOR ONE YEAR, **IFC SECTION 5704.2.13.1.3**, ~~INTERNATIONAL FIRE CODE.~~

Add to Section 5704.2.13.1.3, ~~International Fire Code, the following paragraph:~~ “Upon approval of the Chief underground tanks that comply with the performance standards for new or upgraded underground tanks set forth in Title 40 Section 280.20 or 280.21 of the Code of Federal Regulations may remain out of service indefinitely so long as they remain in compliance with the operation, maintenance and release detection requirements of the federal rule.” (3-31-22)( )

047. -- 055. (RESERVED)

056. REFERENCES TO APPENDIX, INTERNATIONAL FIRE CODE.

The following appendixes of the International Fire Code are hereby adopted: ( )

01. Appendix B, Fire Flow Requirements for Buildings. ( )

02. Appendix C, Fire Hydrant Location and Distribution. ( )

03. Appendix D, Fire Apparatus Access Roads. ( )

a. To sSection D101.1 ~~Scope~~, add ~~the following sentence~~: “Driveways as described in section 503.7 through 503.7.8 are not subject to the requirements of this appendix.” (3-31-22)( )

b. To sSection D102.1, after the phrase: “by way of an approved fire apparatus access road,” add ~~the following~~ “designed and maintained to support the imposed loads of the responding fire apparatus and will be surfaced so as to provide all-weather driving capabilities.” ~~And delete the remainder of the section.~~ (3-31-22)( )

c. ~~To Replace sSection D103.2 Grade. Add the following. with~~ “The gradient of the fire apparatus access road needs to be within the limits established by the fire code official based on the capabilities of the responding fire departments apparatus.” ~~Delete the remainder of the section and the exception.~~ (3-31-22)( )

04. Appendix E, Hazard Categories. ( )

05. Appendix F, Hazard Rankings. ( )

057. -- 999. (RESERVED)

## IDAPA 20 – IDAHO DEPARTMENT OF LANDS

### 20.03.01 – RULES GOVERNING DREDGE AND PLACER MINING OPERATIONS IN IDAHO

#### DOCKET NO. 20-0301-2301 (ZBR CHAPTER REWRITE, FEE RULE)

#### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 58-104(6) and 58-105, Idaho Code, and Title 47, Chapter 13, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 20, 2023.

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

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

Following [Executive Order 2020-01, Zero-Based Regulation](#), this rule chapter is scheduled to be repealed and replaced in 2023 for review during the 2024 legislative session. The overall regulatory burden has been reduced by decreasing both total word count and the number of restrictive words in the new rule chapter. Inspection fees have been increased to cover the costs of performing inspections, and the late payment policy was updated. Surety companies issuing bonds must be listed in the U.S Department of the Treasury's Circular 570, and the 120 day cancellation notification was reduced to 90 days. Time Deposit Receipts were recognized as acceptable forms of bonding.

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

The annual inspection fee in place since 1991 is increased to \$435 for all permits. This fee is being imposed pursuant to Section 47-1317(d), Idaho Code. The current annual inspection fees are \$100 for permits on United States Forest Service lands and \$250 for all other permits.

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 5, 2023, Idaho Administrative Bulletin, [Vol. 23-4, pages 35–37](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Eric Wilson at (208) 334-0261 or [ewilson@idl.idaho.gov](mailto:ewilson@idl.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2023.



DATED this 6th day of September, 2023.

Eric Wilson, Resource Protection & Assistance Bureau Chief  
Idaho Department of Lands  
300 N. 6th Street, Suite 103  
Boise, Idaho 83720-0050  
P.O. Box 83720  
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**THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 20-0301-2301**  
**(ZBR Chapter Rewrite)**

**20.03.01 – RULES GOVERNING DREDGE AND PLACER MINING OPERATIONS IN IDAHO**

**000. LEGAL AUTHORITY.**

~~These rules are promulgated by the Idaho State Board of Land Commissioners pursuant to~~ This Chapter is adopted under the legal authorities of Title 47, Chapter 13, Idaho Code, Section 47-1316; Title 58, Chapter 1, Idaho Code, Sections 58-104(6) and 58-105; and Title 67, Chapter 52, Idaho Code. The Board has delegated to the Director ~~of the Department of Lands (“department”)~~ the duties and powers under the act and these rules; provided that the Board retains responsibility for approval of permits ~~and administrative review.~~ (3-18-22)(    )

**001. TITLE AND SCOPE.**

~~01. Title.~~ These rules are titled IDAPA 20.03.01 “Rules Governing Dredge and Placer Mining Operations in Idaho.” (3-18-22)

~~02. Scope.~~ These rules constitute the Idaho Department of Lands’ administrative procedures for implementation of the Idaho Dredge and Placer Mining Protection Act with the intent and purpose to protect the lands, streams and watercourses within the state, from destruction by dredge mining and by placer mining, and to preserve the same for the enjoyment, use and benefit of all of the people, and that clean water in the streams of Idaho is in the public interest establish the notification requirements for dredge and placer exploration, and the application and operation requirements of dredge and placer mines. In addition, these rules establish the reclamation and financial assurance requirements for all these activities. (3-18-22)(    )

~~02. Applicability.~~ These rules are to be read and applied in conjunction with the Act. (    )

~~a.~~ These rules apply to all lands within the state, including private and federal lands, which are disturbed by dredge or placer mining conducted after November 24, 1954. (    )

~~b.~~ These rules apply to the following activities: (    )

~~i.~~ All dredge and placer exploration activities using motorized earth-moving equipment. (    )

~~ii.~~ The extraction of minerals from a placer deposit, including the removal of vegetation, topsoil, overburden, and minerals; construction and operation of on-site processing equipment; disposal of overburden and waste materials; design and operation of siltation and other water quality control facilities; and other activities contiguous to the mining site that disturb land and affect water quality and/or water quantity. (    )

- c. These rules do not apply to the following: ( )
- i. Mining operations regulated by the Mined Land Reclamation Act: ( )
- ii. Surface disturbance caused by the underground mining of a placer deposit, unless the deposit outcrops on or near the surface and the operation will result in the probable subsidence of the land surface. ( )
- iii. Dredging operations conducted for the sole purpose of establishing and maintaining a channel for navigation. ( )
- iv. Dredging operations in streams or rivers using suction dredges with an intake diameter of eight (8) inches or less. ( )

**03. Other Laws.** Dredge and placer exploration and mining operations must comply with all applicable rules and laws of the state of Idaho including, but not limited to, the following: ( )

- a. Idaho water quality standards established in Title 39, Chapters 1 and 36, Idaho Code and IDAPA 58.01.02, "Water Quality Standards". ( )
- b. Wastewater treatment or disposal plan and specification review established in IDAPA 58.01.16, and IPDES requirements in IDAPA 58.01.25 administered by DEQ. ( )
- c. Idaho Dam Safety Act, Section 42-1710 through 42-1721, Idaho Code, and applicable rules as promulgated and administered by the Idaho Department of Water Resources. ( )
- d. Idaho Stream Channel Protection Act, Title 42, Chapter 38, Idaho Code, and applicable rules as promulgated and administered by the Idaho Department of Water Resources. ( )

**002. ADMINISTRATIVE APPEALS.**

**01. Procedures for Appeals:** (3-18-22)

- a. Any applicant or permit holder aggrieved by any final decision or order of the Board is entitled to judicial review in accordance with the provisions and standards set forth in Title 67, Chapter 52, Idaho Code, the Administrative Procedures Act. (3-18-22)
- b. When the Director or the Board finds that justice so requires, it may postpone the effective date of a final order pending judicial review. The reviewing court, including the court to which a case may be taken on appeal, may issue all necessary and appropriate orders to postpone the effective date of any final order pending conclusion of the review proceedings. (3-18-22)
- c. Notwithstanding any other provisions of these rules concerning administrative or judicial proceedings, whenever the Board determines that a Permittee has not complied with the provisions of the act or these rules, the Board may file a civil action in the district court for the county wherein the violation or some part occurred, or in the district court for the county where the defendant resides. The Board may request the court to issue an appropriate order to remedy any alleged violation. (3-18-22)

**003. -- 009. (RESERVED)**

**010. DEFINITIONS.**

In addition to the definitions set forth in the Act, the following definitions apply to these rules: ( )

- 01. Act.** The Idaho ~~Placer and~~ Dredge and Placer Mining Protection Act, Title 47, Chapter 13, Idaho Code. (3-18-22)( )
- 02. Approximate Previous Contour.** A contour reasonably comparable to that contour existing prior

to disturbance, or that blends with the adjacent topography. ( )

~~03. Best Management Practices. Methods, measures, or practices to prevent or reduce nonpoint source (NPS) water pollution, including, but not limited to, structural and nonstructural controls, and operation and maintenance procedures. Usually, BMPs are applied as a system of practices rather than a single practice. BMPs are selected on the basis of site-specific conditions that reflect natural background conditions; political, social, economic, and technical feasibility; and stated water quality goals.~~ A practice or combination of practices, techniques or measures developed, or identified, by the designated agency and identified in the state water quality management plan which are determined to be the cost-effective and practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals. (3-18-22)( )

~~04. Board. The State Board of Land Commissioners or any department, commission, or agency that may lawfully succeed to the powers and duties of such Board.~~ (3-18-22)

~~05. Department. The Idaho Department of Lands.~~ ( )

~~06. Director. The Director of the Department of Lands or such representative as may be designated by the Director.~~ (3-18-22)

~~07. Disturbed Land or Affected Land. Land, natural watercourses, or existing stockpiles and waste piles affected by placer or dredge mining, re-mining, exploration, stockpiling of ore wastes from placer or dredge mining, or construction of roads, tailings ponds, structures, or facilities appurtenant to placer or dredge mining operations.~~ (3-18-22)

~~08. Final Order of the Board. A written notice of rejection or approval, the order of a hearing officer at the conclusion of a hearing, or any other order of the Board where additional administrative remedies are not available.~~ (3-18-22)

~~09. Hearing Officer. That person duly appointed by the Board to hear proceedings under Section 47-1320, Idaho Code. It also means that person selected by the Director to hear proceedings initiated under Section 030 or Section 051 of these rules.~~ (3-18-22)

~~10. Mine Panel. That area designated by the Permittee as an identifiable portion of a placer or dredge mine on the map submitted pursuant to Section 47-1317, Idaho Code~~ under Subsection 021.04 of these rules. (3-18-22)( )

~~11. Mineral. Any ore, rock or substance extracted from a placer deposit or from an existing placer stockpile or wastepile, but does not include coal, clay, stone, sand, gravel, phosphate, uranium, oil or gas.~~ (3-18-22)

~~12. Motorized Earth Moving Equipment. Backhoes, bulldozers, front loaders, trenchers, core drills, draglines, and suction dredges with an intake diameter exceeding eight (8) inches, and other similar equipment.~~ (3-18-22)

~~13. Mulch. Vegetation residues or other suitable materials to aid in the stabilization of soil and soil moisture conservation.~~ ( )

~~14. Natural Watercourse. Any stream in the state of Idaho having definite bed and banks, and which confines and conducts continuously flowing water.~~ (3-18-22)

~~15. Overburden. Material extracted by a Permittee which is not a part of the material ultimately removed from a placer or dredge mine and marketed by a Permittee, exclusive of mineral stockpiles. Overburden is comprised of topsoil and waste.~~ ( )

~~16. Overburden Disposal Area. Land surface upon which overburden is piled or planned to be piled.~~ ( )

~~17. Permanent Cessation. Mining operations as to the whole or any part of the permit area have~~

stopped and there is substantial evidence that such operations will not resume within one (1) year. The date of permanent cessation is the last day when mining operations are known or can be shown to have occurred. ( )

~~18. **Permit Area.** That area designated under Section 021 as the site of a proposed placer or dredge mining operation, including all lands to be disturbed by the operation. (3-18-22)~~

~~10. **Permit.** Dredge or placer mining permit issued under the Act and these rules. ( )~~

~~191. **Permittee.** The person in whose name the permit is issued and who is to be held responsible for compliance with the conditions of the permit by the Department. ( )~~

~~20. **Person.** Any person, corporation, partnership, association, or public or governmental agency engaged in placer or dredge mining, whether individually, jointly, or through subsidiaries, agents, employees, or contractors. (3-18-22)~~

~~212. **Pit.** An excavation created by the extraction of minerals or overburden during placer mining or exploration operations. ( )~~

~~22. **Placer Deposit.** Naturally occurring unconsolidated surficial detritus containing valuable minerals, whether located inside or outside the confines of a natural watercourse. (3-18-22)~~

~~2313. **Placer Stockpile.** Placer mineral deposit material extracted during past or present placer or dredge or placer mining operations and retained at the mine for future rather than immediate use. (3-18-22)( )~~

~~24. **Placer or Dredge Exploration Operation.** Activities including, but not limited to, the construction of roads, trenches, and test holes performed on a placer deposit for the purpose of locating and determining the economic feasibility of extracting minerals by placer or dredge mining. (3-18-22)~~

~~25. **Placer or Dredge Mining or Dredge or Other Placer Mining.** The extraction of minerals from a placer deposit, including removing for sale, processing, or other disposition of earth material excavated from previous placer or dredge mining. (3-18-22)~~

~~26. **Placer or Dredge Mining Operation.** Placer or dredge mining which disturbs in excess of one-half (1/2) acre of land during the life of the operation. (3-18-22)~~

~~2714. **Reclamation.** The process of restoring an area disturbed by a placer or dredge mining operation or exploration operation to its original or another beneficial use, considering land uses, possible future uses, and surrounding topography. The objective is to re-establish a diverse, self-perpetuating plant community, and to minimize erosion, remove hazards, and maintain water quality. ( )~~

~~2815. **Revegetation.** The establishment of the premining vegetation or a comparable vegetative cover on the land disturbed by placer or dredge mining operations. ( )~~

~~29. **Road.** A way including the bed, slopes, and shoulders constructed within the circular tract circumscribed by a placer or dredge mining operation, or constructed solely for access to a placer or dredge mining operation or placer or dredge exploration operation. A way dedicated to public multiple use or being used by a governmental land manager or private landowner at the time of cessation of operations and not constructed solely for access to a placer or dredge mining operation or exploration operation, is not considered a road. (3-18-22)~~

~~3016. **Settling Pond.** A manmade enclosure or natural impoundment structure constructed and used for the purpose of treating mine process water and/or runoff water from adjacent disturbed areas by the removal or settling of sediment particles. Several types of settling ponds or a series of smaller ponds may be used in water management. The most common type is a recycle or recirculation pond which is used to pump clarified water back to the wash plant operation. ( )~~

~~3417. **Surface Waters.** The surface waters of the state of Idaho. ( )~~

~~3218.~~ **Topsoil.** The unconsolidated mineral and organic matter naturally present on the surface of the earth that is necessary for the growth and regeneration of vegetation. ( )

**011. ABBREVIATIONS.**

**01. BMP.** Best Management Practices. ( )

**02. DEQ.** Idaho Department of Environmental Quality. (3-18-22)( )

~~**012. PURPOSE AND GENERAL PROVISIONS.**~~

~~**01. Policy.** It is the policy of the state of Idaho to protect the lands, streams, and watercourses within the state from destruction by placer mining, and to preserve them for the enjoyment, use, and benefit of all of the people, and that clean water in the streams of Idaho is in the public interest. (3-18-22)~~

~~**02. Purpose.** These rules are intended to implement the requirements for operation and reclamation of placer and dredge mining set forth in the Idaho Code. Compliance with these rules will allow removal of minerals while preserving water quality and ensuring rehabilitation for beneficial use of the land following mining. Placer and dredge mining is expressly prohibited upon certain waterways included in the federal wild and scenic rivers system. It is also the purpose of these rules to implement the state of Idaho's antidegradation policy as set out in Executive Order No. 88-23 as it pertains to placer mining and exploration operations. (3-18-22)~~

~~**03. General Provisions.** In general, these rules establish: (3-18-22)~~

~~**a.** Requirements for placer mine exploration operations; (3-18-22)~~

~~**b.** Procedures for securing a placer and dredge mining permit; (3-18-22)~~

~~**c.** The requirements for posting a performance bond as a condition of such permit to ensure the completion of rehabilitation operations; (3-18-22)~~

~~**d.** Procedures for initial and periodic inspection of placer and dredge mining operations to ensure compliance with these rules; (3-18-22)~~

~~**e.** Prohibition of placer and dredge mining on designated watercourses (see Section 060); and (3-18-22)~~

~~**f.** Prohibitions against placer and dredge mining on certain lands when not in the public interest. (3-18-22)~~

~~**04. Compliance with Other Laws.** Placer and dredge exploration operations and mining operations must comply with all applicable rules and laws of the state of Idaho including, but not limited to, the following: (3-18-22)~~

~~**a.** Idaho Environmental Protection and Health Act, Title 39, Chapter 1, Idaho Code, and rules as promulgated and administered by the Idaho Department of Environmental Quality. (3-18-22)~~

~~**b.** Idaho Stream Channel Protection Act, Title 42, Chapter 38, Idaho Code, and applicable rules as promulgated and administered by the Idaho Department of Water Resources. (3-18-22)~~

~~**c.** Idaho Dam Safety Act, Section 42-1710 through 42-1721, Idaho Code, and applicable rules and regulations as promulgated and administered by the Idaho Department of Water Resources. (3-18-22)~~

~~**013. APPLICABILITY.**~~

~~**01. All Lands in State.** These rules apply to all lands within the state, including private and federal lands, which are disturbed by placer or dredge mining conducted after November 24, 1954. (3-18-22)~~

~~02. **Types of Operations.** These rules apply to placer and dredge mining operations and placer and dredge exploration operations as defined under Section 47-1313, Idaho Code, and Subsections 010.24, 010.25, and 010.26 and to the following activities: (3-18-22)~~

~~a. The extraction of minerals from a placer deposit, including the removal of vegetation, topsoil, overburden, and minerals; construction, and operation of on-site processing equipment; disposal of overburden and waste materials; design and operation of siltation and other water quality control facilities; and other activities contiguous to the mining site that disturb land and affect water quality and/or water quantity. (3-18-22)~~

~~b. All exploration activities conducted upon a placer deposit using motorized earth moving equipment. (3-18-22)~~

~~03. **Nonapplicability.** These rules do not apply to mining operations regulated by the Idaho Surface Mining Act; neither do they apply to surface disturbance caused by the underground mining of a placer deposit, unless the deposit outcrops on or near the surface and the operation will result in the probable subsidence of the land surface. (3-18-22)~~

~~04. **Stream Channel Alterations.** These rules do not exempt the Permittee from obtaining a stream channel alteration permit if required by the Idaho Department of Water Resources. (3-18-22)~~

~~05. **Navigational Improvements.** These rules do not apply to dredging operations conducted for the sole purpose of establishing and maintaining a channel for navigation. (3-18-22)~~

~~06. **Suction Dredges.** These rules do not apply to dredging operations in streams or riverbeds using suction dredges with an intake diameter of eight (8) inches or less. However, these rules do not affect or exempt the applicability of Section 47-701, Idaho Code, regarding leasing of the state-owned beds of navigable lakes, rivers, and streams, Section 47-703A, Idaho Code, regarding exploration on navigable lakes and streams, and Section 39-118, Idaho Code, regarding review of plans for waste treatment or disposal facilities such as settling or recycle ponds. (3-18-22)~~

~~014. **ADMINISTRATION.** The Department of Lands shall administer these rules under the direction of the director. (3-18-22)~~

~~015-019. (RESERVED)~~

**020. PLACER OR DREDGE EXPLORATION OPERATIONS.**

**01. Notice.** Any person desiring to conduct placer or dredge exploration operations using motorized earth-moving equipment must, prior to or within seven (7) days of commencing exploration, notify the Director. The notice includes the following: (3-18-22)(    )

a. The name and address of the operator; ( )

b. The legal description of the exploration operation and ~~its starting and estimated completion date;~~ and a map of sufficient scale to show the location of the exploration and nearby roads and streams. (3-18-22)(    )

c. The exploration starting and estimated completion dates; and ( )

d. The anticipated size of the exploration operation and the general method of operation. ( )

~~02. **Confidentiality.** The exploration notice will be treated confidential pursuant to Sections 74-107 and 47-1314, Idaho Code. (3-18-22)~~

**03. One-Half Acre Limit.** Any placer or dredge exploration operation that causes a cumulative surface disturbance in excess of one-half (1/2) acre of land, including roads, is considered a placer or dredge mining operation and subject to the requirements outlined in Sections 021 through 065. Lands disturbed by any placer or

dredge exploration operation that causes a cumulative surface disturbance of less than one-half (1/2) acre of land, including roads, must be restored to conditions reasonably comparable to conditions existing prior to the placer or dredge exploration operation and as outlined in Subsection 020.043. (3-18-22)( )

**043. Reclamation Required.** The following reclamation activities, required to be conducted on exploration sites, must be performed in a workmanlike manner with all reasonable diligence, and as to a given exploration drill hole, road, pit, or trench, within one (1) year after abandonment thereof: ( )

a. Drill holes must be plugged within one (1) year of abandonment with a permanent concrete or bentonite plug. ( )

b. Restore all disturbed lands, including roads, to conditions reasonably comparable to conditions existing prior to the placer or dredge exploration operations. (47-1314(b)) (3-18-22)( )

c. Conduct revegetation activities in accordance with Subsection 040.175. Unless otherwise required by a federal agency, one (1) pit or trench on a federal mining claim showing discovery, may be left open pending verification by federal mining examiners. Such abandoned pits and trenches must be reclaimed within one (1) year of verification; (3-18-22)( )

d. If water runoff from exploration operations causes siltation or other pollution of surface waters, the operator will prepare disturbed lands and adjoining lands under his or her control, as is necessary to meet state water quality standards. ( )

e. Abandoned lands disturbed by an exploration operation must be top-dressed to the extent that such overburden is reasonably available from any pit or other excavation created by the exploration operation, with that type of overburden that is conducive to the control of erosion or the growth of vegetation that the operator elects to plant thereon; ( )

f. Any water containment structure created in connection with exploration operations will be constructed, maintained, and reclaimed so as not to constitute a hazard to human health or the environment. ( )

## 021. APPLICATION PROCEDURE FOR ~~PLACER OR DREDGE MINING~~ PERMIT.

**01. Approved ~~Reclamation Plan~~ Permit Required.** No Permittee may conduct placer or dredge mining operations, as defined in these rules, on any lands in the state of Idaho until the ~~placer mining~~ permit has been approved by the Board, the ~~Id~~Department has received a bond meeting the requirements of these rules, and the permit has been signed by the Director and the Permittee. (3-18-22)( )

**02. Application Package.** The Permittee must submit a complete application package, for each separate placer mine or mine panel, before the ~~placer~~ permit will be reviewed. Separate placer mines are individual, physically disconnected operations. The complete application package consists of: (3-18-22)( )

a. An application ~~completed by the applicant on a form~~ provided by the Director; (3-18-22)( )

b. A map or maps of the proposed mining operation which includes the information required under Subsection 021.04; ( )

c. A ~~reclamation~~ plan, of operations in map and narrative form, which includes the information required under Subsection 021.06. The map and ~~reclamation~~ plan of operations may be combined on one (1) sheet if practical; (3-18-22)( )

d. Document(s) identifying and assessing foreseeable, site-specific ~~nonpoint~~ sources of water quality impacts upon adjacent surface waters, and the ~~best management practices~~ BMPs or other measures the applicant will take to ~~control such nonpoint source impacts~~ comply with water quality requirements; (3-18-22)( )

e. When the Director determines, after consultation with DEQ, that there is an unreasonably high potential for ~~nonpoint source~~ pollution of adjacent surface waters, the Director will request, and the applicant will

provide to the Director, baseline pre-project surface water monitoring information and furnish ongoing monitoring data during the life of the project. This provision does not require any additional baseline preproject surface water monitoring information or ongoing monitoring data where such information or data is already required to be provided pursuant to any federal or state law and is available to the Director; (3-18-22)( )

f. An out-of-state Permittee must designate an in-state agent authorized to act on behalf of the Permittee. In case of an emergency requiring action to be taken to prevent environmental damage, the authorized agent will be notified as well as the Permittee; ~~and~~ (3-18-22)( )

g. An application fee of fifty dollars (\$50) for each ten (10) acres or fraction of land included in an application for a new ~~mining~~ permit, or of land to be affected or added in an amended application to an existing ~~mining~~ permit, must be included with the application. No application fee will exceed one thousand dollars (\$1,000); ~~and~~ (3-18-22)( )

~~h. If the applicant is not the owner of the lands described in the application, or any part thereof, the landowner must sign the application prior to issuance of a permit. The federal government, as a property owner, will be notified of the application, and asked to sign the application as property owner. For mining operations proposed upon land under a mining lease, either the signature of the lessor must be affixed to the application, or a copy of the complete lease attached to the application. ( )~~

**03. Incomplete Applications.** An application for a permit may be returned for correction if the information provided on the application form or associated mine map(s) or ~~reclamation~~ plan of operations is incomplete or otherwise unsatisfactory. The Director will not proceed on the application until all necessary information is submitted. (3-18-22)( )

~~a. If the applicant is not the owner of the lands described in the application, or any part thereof, the land owner must endorse his approval of the application prior to issuance of a permit. The federal government, as a property owner, will be notified of the application, and asked to endorse the application as property owner. For mining operations proposed upon land under a mining lease, either the signature of the lessor must be affixed to the application or a copy of the complete lease attached to the application. (3-18-22)~~

**04. Requirements of Maps.** Vicinity maps must be prepared on standard United States Geological Survey, seven and one-half (7.5) minute quadrangle maps, or equivalent. In addition, maps of the proposed placer mining operation site will be of sufficient scale to ~~adequately show the following:~~ (3-18-22)( )

a. The location of existing roads ~~and anticipated,~~ access, and main haulage roads ~~planned for construction constructed or reconstructed~~ in connection with the mining operation, ~~along with and the~~ approximate dates for construction, reconstruction, and abandonment; (3-18-22)( )

b. The approximate location, ~~and the~~ names of all known drainages, streams, creeks, ~~springs, wells,~~ or ~~bodies of water~~ bodies within one thousand (1,000) feet of the mining operation; (3-18-22)( )

c. The approximate boundaries of ~~all the proposed disturbed~~ lands to be disturbed in the process of for the mining operation, including legal description to the quarter-quarter section; (3-18-22)( )

d. The approximate boundaries and acreage of the lands that will become disturbed land ~~as a result of the placer or dredge mining operation~~ during the first year of operations ~~following issuance of a placer mining permit;~~ (3-18-22)( )

e. The planned location and configuration of pits, mineral stockpiles, topsoil stockpiles, and waste dumps within the mining property permit area; (3-18-22)( )

f. Scaled cross-sections, ~~of by~~ length and ~~width, height which are representative of the placer or dredge mining operation,~~ showing the surface contour prior to mining and the expected surface contour after ~~reclamation activities have been~~ is completed; (3-18-22)( )

g. The location of required settling ponds, ~~and the design plans, construction specifications and~~



~~narrative to show they meet both operating requirements and protection from erosion, seepage, and flooding that can be anticipated in the area. Where a dredge is operating in a stream, describe by drawing and narrative, the operation of the filtration equipment to be used to clarify the water. discharge points, if any; and~~ (3-18-22)( )

h. Surface and mineral control or ownership map of appropriate scale for boundary identification. (3-18-22)( )

~~05. Settling Ponds. Detailed plans and specifications for settling ponds must be drawn to a scale of one (1) inch = ten (10) feet and include~~ at an appropriate scale to show the following: (3-18-22)( )

a. ~~A detailed map of the~~ Layout of each settling pond ~~location~~, including: (3-18-22)( )

i. Dimensions and orientation of the settling ponds and/or other wastewater treatment components of the operation; ( )

ii. Distance from surface waters; ( )

iii. Pond inlet/outlet locations including emergency spillways and detailed description of control structures and piping; ( )

iv. Location of erosion control structures; ~~and~~ (3-18-22)( )

v. Location of any current ~~Ten (10) year floodplain elevation (probable high water mark). in relation to the mining facilities if the floodplain is within one hundred (100) feet of the facilities; and~~ (3-18-22)( )

vi. The BMPs to be implemented that will keep surface waters from entering any pits and potentially changing course. ( )

b. ~~A detailed~~ cross-section of ~~the~~ each pond(s) including: (3-18-22)( )

i. Dimensions and orientation; ( )

ii. Proposed sidewall elevations; ( )

iii. Proposed sidewall slope; ( )

iv. Sidewall width; ( )

v. Distance from and elevation above all surface water; and ( )

vi. Slope of settling pond location. ( )

c. Narrative of the construction method(s) describing: ( )

i. Bottom material; ( )

ii. Sidewall material; ( )

iii. Pond volume; ( )

iv. Volume of water to be used in the wash plant; ( )

v. Discharge or land application requirements; ( )

vi. Any pond liners or filter materials to be installed; and ( )

viii. Compaction techniques. ( )

- ~~d. If the proposed ponds are: (3-18-22)~~
- ~~i. Less than two thousand five hundred (2,500) feet square surface area; (3-18-22)~~
- ~~ii. Less than four (4) feet high; (3-18-22)~~
- ~~iii. Greater than fifty (50) feet from surface water; and (3-18-22)~~
- ~~iv. Constructed on slopes of three: one (3:1) or flatter, the plans and specifications for settlements ponds must contain information in Subparagraphs 021.05.a.i., 021.05.a.ii., and 021.05.a.iv.; 021.05.b.i., 021.05.b.ii., 021.05.b.v. and 021.05.b.vi. This information may be prepared as a sketch map showing appropriate elevations, distances and other required details. (3-18-22)~~

**06. Requirements for ~~Reclamation Plan~~ **Plan of Operations.**** A ~~reclamation plan~~ **plan of operations** must be submitted in map and narrative form and include the following: (3-18-22)(    )

**a.** Show how watercourses disturbed by the mining operation will be replaced on meander lines with a pool structure conducive to good fish and wildlife habitat and recreational use. Show how and where riprap or other methods of bank stabilization will be used to ensure that, following abandonment, the stream erosion will not exceed the rate normally experienced in the area. If necessary, show how the replaced watercourse will not contribute to degradation of water supplies; ( )

**b.** Describe and show the contour of the proposed mine site after final backfilling and ~~or~~ grading, with grades listed for slopes after mining; (3-18-22)(    )

**c.** On a drainage control map, show the best management practices to be utilized to minimize erosion on disturbed lands; ( )

**d.** Show roads to be reclaimed upon completion of mining; ( )

**e.** Show plans for both concurrent and final revegetation of disturbed lands. Indicate soil types, **where soils are not present**, slopes, precipitation, seed rates, species, topsoil, or other growth medium storage and handling, time of planting, method of planting and, if necessary, fertilizer and mulching rates; (3-18-22)(    )

**f.** The planned reclamation of tailings or sediment ponds; ( )

**g.** An estimate of total reclamation cost to be used in establishing bond amount. The cost estimate should include the approximate cost of grading, revegetation, equipment mobilization, labor, and administrative overhead; **and** (3-18-22)(    )

**h.** Make a premining estimate of trees on the site by species and forest lands utilization consideration in reclamation. ( )

**07. State Approval Required.** Approval of a ~~placer mining~~ permit must be obtained under these rules, even if approval of such plan has been or is obtained from an appropriate federal agency. (3-18-22)(    )

**08. Application Review and Inspection.** If the ~~Director~~ **Department** determines that an inspection is necessary, the applicant may be contacted and asked that he or his duly authorized employee or representative be present for inspection at a reasonable time. An inspection may be required prior to issuance of the permit. The applicant must make such persons available for the purpose of inspection (~~see Subsection 051.01~~). Failure to provide a representative does not mean that the state will not conduct such inspection. (3-18-22)(    )

**022. PROCEDURES FOR REVIEW AND DECISION UPON AN APPLICATION.**

~~**01. Decision on Application.** Following the Director's review of an application for a new permit, or to amend an existing permit and provide an opportunity to correct any deficiencies, the Board will approve or~~

~~disapprove the application and the Director will notify the applicant of the Board's decision by mail. Such notice will contain any reservations conditioned with the approval, or the information required to be given under Subsections 022.07 and 022.09 if disapproved. If approved, a permit will be issued after the bonding requirements of Section 035 are met. No mining is allowed until the permit is bonded and applicant is notified by mail or telephone of approval.~~ (3-18-22)

**021. Public Hearings.** For the purpose of determining whether a proposed application complies with these rules, the Director may call for a public hearing, as described in Section 030. ( )

**032. Adverse Weather.** If weather conditions prevent the ~~Director~~ Department from inspecting the proposed mining site to acquire the information required to evaluate the application, the application may be placed in suspense, pending improved weather conditions. The applicant will be notified in writing of this action. (3-18-22)( )

**043. Interagency Comment.** Nonconfidential materials submitted under Section 021 will be forwarded by the ~~Director~~ Department to the Departments of Water Resources, Environmental Quality, and Fish and Game for review and comment. If operations are to be located on federal lands, the ~~d~~Department will notify the U. S. Bureau of Land Management or the U.S. Forest Service. The Director may provide public notice on receipt of a reclamation plan. In addition, a copy of an application will be provided to individuals who request the information in writing, subject to Title 74, Chapter 1, Idaho Code. (3-18-22)( )

**054. Stream Channel Alteration Permits.** No permit will be issued proposing to alter, occupy or to dredge any stream or watercourse without notification to the Department of Water Resources of the pending application. The Department of Water Resources will respond to said notification within twenty (20) days. If a stream channel alteration permit is required, it must be issued prior to issuance of the placer and dredge permit. (3-18-22)( )

**065. Water Clarification.** No permit will be issued until the ~~Director~~ Department is satisfied that the methods of water clarification proposed by the applicant are of sound engineering design and capable of meeting the water quality standards established under Title 39, Chapters 1 and 36, Idaho Code, and IDAPA 58.01.02, "Water Quality Standards," IDAPA, 58.01.11. "Ground Water Quality Rule." (3-18-22)( )

**06. Permit Conditions.** If an application fails to meet the requirements of these rules, the Department may include permit conditions that bring the application into compliance with these rules. ( )

**07. Decision on Application.** Following the Department's review of an application for a new or amended permit and an opportunity for the applicant to correct any deficiencies, the Board will approve or disapprove the application and the Director will notify the applicant of the Board's decision by mail. ( )

**08. Permit Offering.** Upon approval by the Board, the applicant will be sent the permit for their signature and submittal of the reclamation bond and first year's inspection fees. If the signed permit, fee, and bond are not received by the Department within twelve (12) months of Board action, the approval will be automatically rescinded. Upon receipt of the signed permit, fee, and bond, the Department will complete the permit with the required state signatures and send the fully executed permit to the permittee. ( )

**079. Permit Denial Authority.** The Board has the power to deny any application for a permit on state lands, streams, or riverbeds, or on any unpatented mining claims, ~~upon its determination that a placer or dredge mining operation on the area proposed would not be in the public interest, giving consideration to economic factors, recreational use for such lands, fish and wildlife habitat, and other factors which in the judgement of the Board may be pertinent, and may deny any application upon notification by the Department of Water Resources that the granting of such permit would result in permanent damage to the stream channel.~~ (pursuant to Section 47-1317(j), Idaho Code). (3-18-22)( )

**08. Permit Conditions.** ~~If an application fails to meet the requirements of these rules, the Board may issue a permit subject to conditions that bring the application into compliance with these rules. The applicant may accept or refuse the permit. Refusal to accept the permit is considered a denial under Subsection 022.09.~~ (3-18-22)

~~09~~**10. Amended Applications.** If the Board disapproves the application, the applicant will be informed of the rules that have not been complied with, the manner in which they have not been complied with, and the requirements necessary to correct the deficiencies. The applicant may then submit an amended application and application fee, which will be processed as described in Section 022 of these rules. (3-18-22)( )

~~10. Permit Offering.~~ Upon approval by the Board, the applicant will be notified of the action and the amount of bond required. Upon receipt of the required bond, the permit will be sent to the applicant for signature. If the bond and the permit, signed by the applicant, are not received within twelve (12) months of Board action, the approval will be automatically rescinded, except that upon written request of the applicant, and for good cause, the Director may defer decision of the Board's approval for a reasonable period of time not to exceed one (1) year. The Director will notify the applicant of his decision in writing. (3-18-22)

**11. Reclamation Obligations.** The permit issued by the Board governs and determines the nature and extent of the reclamation obligations of the Permittee. ( )

**023. -- 024. (RESERVED)**

**025. AMENDING AN APPROVED PERMIT.**

**01. Application to Amendment.** If circumstances arise that require significant change in the reclamation plan of operations, method of operation, increase in acreage, water management or other details associated with an approved permit, the Permittee will submit an application on a department form or exact copy to amend the permit. ~~Application fees are to be submitted with amended applications pursuant to Subsection 021.02.g covering the proposed changes as described in Section 021 of these rules.~~ (3-18-22)( )

**02. Processing.** An application to amend a permit will be processed in accord with Section 022. ( )

**026. DEVIATION FROM AN APPROVED PERMIT.**

**01. Unforeseen Events.** ~~If a Permittee finds that~~ unforeseen events or unexpected conditions require immediate deviation from an approved permit, the Permittee may continue mining in accord with the procedures as dictated by the changed conditions, pending submission and approval of an amended permit, even though such operations do not comply with the current approved permit. This does not excuse the Permittee from complying with the BMPs and reclamation requirements of Sections 020 and 040. If water quality is being impaired or the stability of settling ponds or other mine features is compromised due to the unforeseen events, then mining must stop until the mine features are stabilized. (3-18-22)( )

**02. Notification.** Notification of such unforeseen events must be given to the ~~d~~Department within forty-eight (48) hours after discovery, and an application to amend the permit must be submitted within thirty (30) days of deviation from the approved permit by the Permittee. (3-18-22)( )

**027. TRANSFER OF PERMITS.**

~~Placer and dredge mining p~~Permits may be transferred from an existing Permittee to a new Permittee only after the Department's approval. Transfer is made by the new Permittee filing a notarized Department ~~Transfer of Permit~~ form and providing replacement bonding. The new Permittee is then responsible for the past Permittee's obligations under Title 47, Chapter 13, Idaho Code the Act, these rules, ~~the reclamation plan,~~ and the permit. ~~When a replacement bond is submitted relative to an approved placer/dredge mining permit, the following rider must be filed with the department as part of the replacement bond before the existing bond will be released:~~

~~"(Surety company or principal) understands and expressly agrees that the liability under this bond shall extend to all acts for which reclamation is required on areas disturbed in connection with placer/dredge mining permit No., both prior and subsequent to the date of this rider."~~ (3-18-22)( )

**028. -- 029. (RESERVED)**

**030. PUBLIC HEARING FOR PERMIT APPLICATION.**

**01. Public Hearings.** During any stage of the application process the ~~Director~~ Department may conduct a public hearing. (3-18-22)( )

**02. Basis for Hearing.** This action will be based upon the preliminary review of the application and upon any concern registered with the ~~Director~~ Department by the public, affected land owners, ~~federal reviewing agencies having surface management of the affected lands~~, other interested entities, or upon request by the applicant. (3-18-22)( )

~~**03. Hearing for Water Degradation** The Director will call for a public hearing when he determines, after consultation with the Departments of Water Resources, Environmental Quality, Fish and Game, and affected Indian tribes (pursuant to Paragraph 021.02.e.), that proposed placer or dredge mining operations can reasonably be expected to significantly degrade adjacent surface waters. A hearing held under this subsection will be conducted to receive comment on the measures the applicant will use to protect surface water quality from nonpoint source water pollution. (3-18-22)~~

~~**04. Site of Hearing.** The hearing will be held, ~~upon the record~~, in the locality of the proposed operation, or in Ada County, at a reasonable time and place. (3-18-22)( )~~

~~**05. Hearing Notice.** The ~~Director~~ Department will give notice of the date, time, and place of the hearing to the applicant, ~~to~~ federal, state, and local agencies, and Indian tribes which may have an interest in ~~the decision, as shown on~~ the application; ~~to all any~~ persons petitioning for the hearing, ~~if any~~; and ~~to~~ all persons identified ~~by the applicant pursuant to Subsection 021.03.a.~~ as an owner of the specific acreage to be affected by the proposed ~~placer or dredge mining~~ operation. Such hearing notice will be sent by certified mail and postmarked not less than thirty (30) days before the scheduled date of the public hearing. (3-18-22)( )~~

~~**06. Public Notice.** The Director will notify the general public of the date, time, and place of the hearing by placing a newspaper advertisement once a week, for two (2) consecutive weeks, ~~in the locale of the area covered by the application in a newspaper in the county in which the mining is proposed.~~ The ~~two (2) consecutive weekly~~ advertisements ~~begin will be~~ between seven (7) and twenty (20) days prior to the scheduled date of the hearing. A copy of the application is to be placed for review in a conspicuous place in the local area of the proposed mining operations, in the ~~nearest~~ Department's nearest area office, and the ~~Department's~~ Department's administrative office in Boise. (3-18-22)( )~~

~~**07. Description of Effects.** In the event a hearing is ordered under Subsection 030.03, the notice to the public will describe the potentially significant surface water quality degradation and contain the applicant's description of the measures that will be taken to prevent degradation of adjacent surface waters from nonpoint sources of pollution. The foregoing is to be discussed at the public hearing. (3-18-22)~~

~~**08. Hearing Officer.** The hearing will be conducted by the Director or his duly authorized representative. Both oral and written testimony will be accepted. ( )~~

**031. -- 034. (RESERVED)**

**035. PERFORMANCE BOND REQUIREMENTS.**

**01. Submittal Amount of Bond.** ~~Prior to issuance of a placer or dredge mining permit, an applicant must submit to the Director, on a placer or dredge mining bond form, a performance bond meeting the requirements of this rule. (3-18-22)~~

~~**a.** The ~~amount of the~~ initial bond is in the amount determined by the Board to be the estimated reasonable costs of reclamation of lands proposed to be disturbed in the permit area, plus ten percent (10%), and subject to the limitations in Idaho Code 47-1317(b). ~~The determination by the Board of the bond amount constitutes a final decision subject to judicial review as set forth in Section 002 of these rules. The bond may be submitted in the form of a surety, cash, certificate of deposit, or other bond acceptable to the Director. (3-18-22)~~~~

~~**b.** Acreage on which reclamation is completed must be reported in accord with Subsections 035.06 and 035.07. Acreage may be released upon approval by the Director. The bond may be reduced by the amount~~

~~appropriate to reflect the completed reclamation.~~ (3-18-22)( )

**02. Form of Performance Bond.** ( )

a. Corporate surety bond: This is an indemnity agreement executed for the Permittee by a corporate surety licensed to do business in the state of Idaho ~~and~~ submitted on a ~~placer and dredge mining bond Department form, or exact copy, supplied by the Director.~~ Surety bonds are subject to the following conditions: ~~The bond is to be conditioned upon the Permittee faithfully performing all requirements of the act, these rules, the permit, and reclamation plan, and must be payable to the state of Idaho.~~ (3-18-22)( )

i. The bond is to be conditioned upon the Permittee faithfully performing all requirements of the Act, these rules, and the permit, and must be payable to the state of Idaho; ( )

ii. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties in Circular 570 of the U.S. Department of the Treasury; and ( )

iii. When a replacement bond is submitted, the following rider must be filed with the Department as part of the replacement before the existing bond will be released: "(Surety company or principal) understands and expressly agrees that the liability under this bond will extend to all acts for which reclamation is required on areas disturbed in connection with placer or dredge mining permit [number], both prior to and subsequent to the date of this rider." ( )

iv. Any surety company canceling a bond must give the Department at least ninety (90) days' notice prior to cancellation. The Director will not release a surety from liability under an existing bond until the Permittee has submitted an acceptable replacement bond to the Director or reclaimed the site. A replacement bond must be received within thirty (30) days following written notice by the Director or prior to the effective date of cancellation, whichever is later. ( )

v. If a surety's Idaho business license is suspended or revoked the Permittee must, within thirty (30) days after notice by the Department, submit a replacement bond for such surety to the Department. ( )

vi. If the Permittee fails to submit a replacement bond or complete reclamation as directed in subparagraphs iv and v above, the Director may issue a cease-and-desist order and seek injunctive relief to stop the Permittee from conducting placer and dredge mining operations on the lands covered by the bond until a replacement bond has been submitted. The Permittee must cease mining operations on lands covered by the bond until a bond acceptable to the Department is filed. ( )

b. Collateral bond: This is an indemnity agreement executed by or for the Permittee, and payable to the ~~state of Idaho Department of Lands,~~ pledging cash deposits, governmental securities, or ~~negotiable~~ certificates of deposit of any financial institution doing business in the United States. Collateral bonds are subject to the following conditions: (3-18-22)( )

i. The Director will obtain possession, ~~and upon receipt of such collateral bonds,~~ of cash or other collateral bonds and then deposit ~~such cash or securities~~ them with the state treasurer to hold in trust for the purpose of bonding reclamation performance; (3-18-22)( )

ii. The Director will value collateral at its current market value minus any penalty for early withdrawal, not its face value; (3-18-22)( )

iii. Certificates of deposit ~~will be~~ or time deposit receipts are issued or assigned, in writing, to the ~~Department, in writing, state of Idaho~~ and upon the books of the financial institution issuing such certificates. Interest will be allowed to accrue and may be paid by the bank, upon demand and after written release by the Department, to the Permittee, or other person ~~which~~ who posted the collateral bond; (3-18-22)( )

iv. Amount of an individual certificate of deposit or time deposit receipt may not exceed the maximum amount insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation or their successors; (3-18-22)( )

v. Financial institutions issuing ~~such~~ certificates of deposit or time deposit receipts will waive all rights of set-off or liens which it has or might have against such certificates, and will place holds on those funds that prevent the Permittee from withdrawing funds until the Department sends a written release to the financial institution; (3-18-22)(    )

vi. ~~Any such e~~Certificates will of deposit and time deposit receipts must be automatically renewable; and, (3-18-22)(    )

vii. ~~The certificate of deposit will be of sufficient amount to ensure that the Director would be able to liquidate such certificates prior to maturity, upon forfeiture, for the amount of the required bond, including any penalty for early withdrawal.~~ (3-18-22)

c. Letters of credit: A letter of credit is an instrument executed by a bank doing business in Idaho and made at the request of a customer. A letter of credit states that the issuing bank will honor drafts for payment upon compliance with the terms of the credit. Letters of credit are subject to the following conditions: (3-18-22)(    )

i. ~~A letter of credit (“credit”) is an instrument executed by a bank doing business in Idaho, made at the request of a customer, that states that the issuing bank will honor drafts for payment upon compliance with the terms of the credit;~~ (3-18-22)

ii. All credits are irrevocable and prepared in a format prescribed by the Director; ( )

iii. All credits must be issued by an institution authorized to do business in the state of Idaho or through a confirming correspondent bank authorized to do business in the state of Idaho ~~which engages that it will itself honor the credit in full. In the alternative, a foreign bank may execute or consent to jurisdiction of Idaho courts on a form prescribed by the Director;~~ and (3-18-22)(    )

~~iv~~ii. The account party on all credits must be identical to the entity identified on the placer mining permit as the Permittee. (3-18-22)(    )

**03. Blanket Bond.** Where a Permittee is involved in numerous placer or dredge operations, the Director may accept a blanket bond in lieu of separate bonds under approved permits. The amount of such bond must comply with other applicable provisions of Section 035 and are must be equal to the total of the penalties amounts of the separate bonds being combined into a single bond. (3-18-22)(    )

**04. Bond Cancellation.** ~~Any surety company canceling a bond must give the department at least one hundred twenty (120) days’ notice prior to cancellation. The Director will not release a surety from liability under an existing bond until the Permittee has submitted to the Director an acceptable replacement bond or reclaimed the site. Replacement bonds must cover any liability accrued against the bonded principal under the permit. If a Permittee fails to submit an acceptable replacement bond prior to the effective date of cancellation of the original bond, or within thirty (30) days following written notice of cancellation by the Director, whichever is later, the Director may issue a cease and desist order and seek injunctive relief to stop the Permittee from conducting placer or dredge mining operations on the lands covered by the bond until such replacement has been received by the department. The Permittee must cease mining operations on lands covered by the bond until a suitable bond is filed.~~ (3-18-22)

**05. Substitute Surety.** If a surety’s Idaho business license is suspended or revoked, the Permittee must, within thirty (30) days after notice by the department, find a substitute for such surety. The substitute surety must be licensed to do business in Idaho. If the Permittee fails to secure such substitute surety, the Director may issue a cease and desist order and seek injunctive relief to stop the Permittee from conducting placer and dredge mining operations on the lands covered by the bond until a substitution has been made. The Permittee must cease mining operations on lands covered by the bond until a bond acceptable to the department is filed. (3-18-22)

**06. Bond Reduction.** ~~Upon finding that any land bonded under a placer or dredge mining permit will not be affected by mining, the Permittee must notify the Director by submitting an application amending the permitted acreage, pursuant to Section 025. When the Director has verified that the bonding requirement for the amended permit is adequate, any excess reclamation bond will be released. Any request for bond reduction will be~~

~~answered by the Director within thirty (30) days of receiving such request unless weather conditions prevent inspection. (3-18-22)( )~~

a. Upon finding that any land bonded under a permit will not be affected by mining, the Permittee will notify the Department. When the Department has verified that the bonding requirement for the remaining permit area is adequate, any excess reclamation bond will be released. Any request for bond reduction will be answered by the Director within thirty (30) days of receiving such request unless weather conditions prevent inspection. ( )

b. A Permittee may petition the Department for a change in the initial bond rate. The Department will review the petition and if satisfied with the information presented a revised bond amount will be determined. The revised bond amount will be based upon the estimated cost that the Department would incur should a forfeiture of bond occur and it becomes necessary for the Department to complete reclamation to the standards established in the permit. This amount is subject to the limitations in Section 47-1317(b), Idaho Code. ( )

**075. Bond Release.** Upon completion of the reclamation, specified in the permit, the Permittee must notify the ~~Director~~ Department in writing, of ~~his their~~ desire to secure release from bonding. When the ~~Director~~ Department has verified that the requirements of the ~~placer or dredge mining~~ permit have been met, ~~as stated in the permit,~~ the bond will be released. (3-18-22)( )

a. Any request for bond release will be answered by the ~~Director~~ Department within thirty (30) days of receiving such request unless weather conditions prevent inspection. (3-18-22)( )

b. If the ~~Director~~ Department finds that a specific portion of the reclamation has been satisfactorily completed, the bond may be reduced to the amount required to complete the remaining reclamation. The following schedule will be used to complete these bond reductions unless the ~~Director~~ Department determines in a specific case that this schedule is not appropriate and specifies a different schedule: (3-18-22)( )

i. Sixty percent (60%) of the bond may be released when the Permittee completes the required backfilling, regrading, topsoil replacement, and drainage control of the bonded area in accordance with the approved ~~placer mining~~ permit; and (3-18-22)( )

ii. ~~After An additional twenty-five percent (25%) of the bond may be released after the Permittee performs~~ revegetation activities ~~have been performed by the Permittee~~ on the regraded lands according to the approved ~~placer mining~~ permit and Section 040 of these rules, ~~the department may release an additional twenty-five percent (25%) of the bond. (3-18-22)( )~~

c. The remaining bond will not be released: ( )

i. As long as the disturbed lands are contributing sediment or other pollution to surface waters outside the disturbed land in excess of state water quality standards established under Title 39, Chapters 1 and 36, Idaho Code; (3-18-22)( )

ii. Until final removal of equipment and structures related to the mining activity, or until any remaining equipment and structures are brought under an approved ~~placer or dredge mining~~ permit and bond by a new Permittee ~~(this rule does not require a Permittee to remove equipment or structures from patented lands when the landowner has authorized the equipment and structures to remain on the site); (3-18-22)( )~~

iii. Until all temporary sediment or erosion control structures have been removed and reclaimed or until such structures are brought under an approved ~~placer mining~~ permit and bond by a new Permittee; and (3-18-22)( )

iv. Until vegetation ~~productivity is returned to levels of yields at least comparable to productivity which the disturbed lands supported prior to the permitted mining, except as stated in Subsection 040.17.b~~ meets the standards in Subsection 040.15 of these rules. (3-18-22)( )

**086. Forfeiture.** In accord with Subsection 0501.02, a bond may be forfeited if the Director determines that the Permittee has not conducted the placer and dredge mining and reclamation in accord with the ~~a~~Act, these



rules, ~~and the approved permit, and the reclamation plan.~~ (3-18-22)( )

**097. Correction of Deficiencies.** The Director may, through cooperative agreement with the Permittee, devise a schedule to correct deficiencies in complying with the permit and thereby postpone action to recover the bond. ( )

~~**10. Bonding Rate.** A Permittee may petition the Director for a change in the initial bond rate. The Director will review the petition, and if satisfied with the information presented, a special bond rate will be set based upon the estimated cost that the Director would incur should a forfeiture of bond occur and it becomes necessary for the Director to complete reclamation to the standards established in the permit and reclamation plan.~~ (3-18-22)

**108. Federal Bonds Recognized.** The Director may accept as a bond, evidence of a valid reclamation bond with the United States government. The bond must equal or exceed the amount determined in Subsection 035.01.a. This does not release a Permittee from bonding under these rules if the Permittee fails to continuously maintain a valid federal bond. ( )

~~**109. Insufficient Bond.** In the event the amount of the bond is insufficient to reclaim the land in compliance with the Act, these rules, the approved permit, and the reclamation plan of operations, the attorney general is empowered to commence legal action against the Permittee in the name of the Board to recover the amount, in excess of the bond, necessary to reclaim the land in compliance with the Act, these rules, the approved permit, and the reclamation plan of operations.~~ (3-18-22)( )

**036. -- 039. (RESERVED)**

**040. BEST MANAGEMENT PRACTICES AND RECLAMATION FOR PLACER AND DREDGE MINING OPERATION.**

**01. Nonpoint Source Sediment Pollution Control.** (3-18-22)( )

**a.** Appropriate best management practices for nonpoint source sediment or other pollution controls must be designed, constructed, and maintained with respect to site-specific placer or dredge mining operations. ~~Permittees will utilize best management practices designed to achieve state water quality standards and protect existing beneficial uses of adjacent surface waters.~~ (3-18-22)( )

**b.** State water quality standards, including protection of existing beneficial uses, are the standard that must be achieved by best management practices. In addition to proper mining techniques and reclamation measures, the Permittee will take necessary steps at the close of each operating season to assure that sediment movement or other pollution associated with surface runoff over the area is minimized in order to achieve water quality standards. ( )

**c.** Sediment or pollution control measures refer to best management practices that are carried out within and, if necessary, adjacent to the disturbed land and consist of utilization of proper mining and reclamation measures, as well as specific necessary pollution control methods, separately or in combination. Specific pollution control methods may include, but are not limited to: ( )

- i. Keeping the disturbed land to a minimum at any given time through concurrent reclamation; ( )
- ii. Shaping waste to help reduce the rate and volume of water runoff by increasing infiltration; ( )
- iii. Retaining sediment within the disturbed land; ( )
- iv. Diverting surface runoff to limit water coming into the disturbed land and settling ponds; ( )
- v. Routing runoff through the disturbed land using protected channels or pipes so as not to increase sediment load; ( )

vi. Use of riprap, straw dikes, check dams, mulches, temporary vegetation, or other measures to reduce overland flow velocities, reduce runoff volume, or retain sediment; and ( )

vii. Use of adequate sediment ponds, with or without chemical treatment. ( )

**02. Modification of Best Management Practices.** If best management practices utilized by the Permittee do not result in compliance with Subsection 040.01, the Director will require the Permittee to modify or improve such best management practices to meet state water quality standards. (3-18-22)( )

**03. Clearing and Grubbing.** Clearing and grubbing of land in preparation for mining exposes mineral soil to the erosive effects of moving water. Permittees are cautioned to keep such areas as small as possible (preferably no more than one (1) year's mining activity) as the Permittee is required to meet state water quality standards. Trees and slash should be stockpiled for use in seedbed protection and erosion control and such stockpiling may be a requirement of the approved permit. ( )

**04. Overburden/Topsoil.** To aid in the revegetation of disturbed land, where placer or dredge mining operations result in the removal of substantial amounts of overburden, including any topsoil, the Permittee must remove, where practicable, the available topsoil or other growth medium as a separate operation for such area. Unless there are previously disturbed lands which are graded and immediately available for placement of the newly removed topsoil or other growth medium, the topsoil or other growth medium must be stockpiled and protected from erosion and contamination until such areas become available. ( )

a. Overburden/topsoil removal: ( )

i. Any overburden/topsoil to be removed will be removed prior to any other mining activity to prevent loss or contamination; ( )

ii. Where overburden/topsoil removal exposes land area to potential erosion, the Director may, as a condition of a permit, limit the size of any one (1) area having topsoil removed at any one (1) time. ( )

iii. Where the Permittee can show that an overburden material other than topsoil is more conducive to plant growth, or where overburden other than topsoil is the only material reasonably available, such overburden may be allowed as a substitute for or a supplement to the available topsoil. ( )

b. Topsoil storage. Topsoil stockpiles must be placed to minimize rehandling and exposure and to avoid excessive wind and water erosion. Topsoil stockpiles must be protected, as necessary, from erosion by use of temporary vegetation or by other methods which will control erosion including, but not limited to, silt fences, chemical binders, seeding, and mulching. ( )

c. Overburden storage. Stockpiled ridges of overburden must be leveled to a minimum width of ten (10) feet at the top. Peaks of overburden must be leveled to a minimum width of fifteen (15) feet at the top. The overburden piles must be reasonably prepared to control erosion using best management practices such as terracing, silt fences, chemical binders, seeding, and mulching. ( )

**05. Roads.** ( )

a. Roads must be constructed to minimize soil erosion. Such construction may require, but is not limited to, restrictions on length and grade of roadbed, surfacing of roads with durable non-toxic material, stabilization of cut and fill slopes, and other techniques designed to control erosion. ( )

b. All access and haul roads must be adequately drained. Drainage structures may include, but are not limited to, properly installed ditches, water-bars, cross drains, culverts, and sediment traps. ( )

c. Culverts that are to be maintained for more than one (1) year must be designed to pass peak flows from not less than a twenty (20) year, twenty-four (24) hour precipitation event and have a minimum diameter of eighteen (18) inches. ( )

d. Roads and water control structures must be maintained at periodic intervals as needed. Water control structures serving to drain roads may not be blocked or restricted in any manner to impede drainage or significantly alter the intended purpose of the structure. ( )

e. Roads that are to be abandoned must be cross-ditched, ripped, and revegetated or otherwise obliterated to control erosion. ( )

f. Roads, ~~not abandoned, which are to continue in that will be~~ used under the jurisdiction of a governmental or private landowner, after reclamation is completed are the Permittee's responsibility ~~to comply with the nonpoint source sediment control provisions of under~~ Subsection 040.01 until the successor assumes control. (3-18-22)( )

**06. Settling Ponds -- Minimum Criteria.** ( )

a. Settling ponds must provide adequate sediment storage capacity to achieve compliance with applicable water quality standards and protect existing beneficial uses, and may require periodic cleaning and proper disposal of sediment. ( )

b. No settling pond, used for process water clarification, ~~must~~ may be constructed to block a surface water drainage. (3-18-22)( )

c. All settling ponds ~~must~~ will be constructed and designed to prevent surface water runoff from entering the pond. (3-18-22)( )

d. All settling ponds ~~must~~ will be constructed and maintained to contain direct precipitation to the pond surface from a fifty (50) year twenty-four (24) hour storm event. (3-18-22)( )

e. No chemicals may be used for water clarification or on site gold recovery without prior notification to, and approval from, the DEQ. ( )

**07. Dewatering Settling Ponds.** Upon reclamation, settling ponds must be dewatered, detoxified, and stabilized. Stabilization includes regrading ~~the site for erosion control~~, to the approximate original contour, and may require removal and disposal of settling pond contents. (3-18-22)( )

~~**08. Topsoil Replacement.** Following completion of the requirements of Subsection 040.07, the settling ponds must be retopped with stockpiled topsoils or other soils conducive to plant growth. Where such soils are limited in quantity or not available, physical or chemical methods of erosion control may be used. All such areas are to be revegetated in accord with Subsection 040.17, unless otherwise specified in the placer mining permit. (3-18-22)~~

~~**09. Dam Safety.** Settling ponds must conform with the Idaho Dam Safety Act, Section 42-1710 through 42-1721, Idaho Code and with the Environmental Protection and Health Act, Section 39-118, Idaho Code, requiring plan and specification review and approval for waste treatment facilities. (3-18-22)~~

~~**1008. Backfilling and Grading.**~~ ( )

a. Every operator who conducts placer mining exploration operations that disturb less than one-half (1/2) acre must contour the disturbed land to its approximate previous contour. These lands must be revegetated in accordance with Subsection 040.17~~5~~. For showing discovery on federal mining claims, unless otherwise required by a federal agency, one (1) pit may be left open on each claim pending verification by federal mining examiners, but must not create a hazard to humans or animals. Such pits and trenches must be reclaimed within one (1) year of verification. (3-18-22)( )

b. Every Permittee who disturbs more than one-half (1/2) acre must shape and smooth the disturbed ground to a grade reasonably comparable with the natural contour of the ground prior to mining, and to a condition that promotes the growth of vegetation except as provided in Paragraph 040.15.m. or minimize erosion through other means. Any disturbed natural watercourse must be restored to a configuration and structure conducive to good fish

and wildlife habitat and recreational use. ( )

c. Backfill materials must be compacted in a manner to ensure stability of the fill. ( )

d. After the disturbed land has been graded, slopes will be measured by the department for compliance with the requirements of the ~~a~~Act, these rules, and the ~~placer or dredge mining permit, and the reclamation plan.~~ (3-18-22)( )

**109. Waste Disposal - Disposal of Waste in Areas Other Than Mine Excavations.** Waste materials not used in backfilling mined areas must be placed, stabilized, and revegetated to ensure that drainage is compatible with the surrounding drainage and to ensure long-term stability. ( )

a. The Permittee may, if appropriate, use terraces to stabilize the face of any fill. Slopes of the fill material may not exceed the angle of repose. ( )

b. Unless adequate drainage is provided through a fill area, all surface water above a fill must be diverted away from a fill area into protected channels, and drainage may not be directed over the unprotected face of a fill. ( )

**120. Topsoil Redistribution.** Topsoil must be spread to achieve a thickness over the regraded area, adequate to support plant life. Excessive compaction of overburden and topsoil is to be avoided. Topsoil redistribution must be timed so that seeding or other protective measures can be readily applied to prevent compaction and erosion. Final grading must be along the contour unless such grading will expose equipment operators to hazardous operating conditions, in which case the best alternative method must be used in grading. ( )

**131. Soil Amendments.** Nutrients and soil amendments ~~must, if necessary, will~~ be applied as needed to the graded areas to successfully achieve the revegetation requirements of the permit ~~and reclamation plan.~~ (3-18-22)( )

**142. Revegetating Waste Piles.** The Permittee must conduct revegetation activities with respect to such waste piles in accordance with Subsection 040.175. (3-18-22)( )

**153. Mulching.** Mulch ~~must should~~ be used on severe sites and may be required by the ~~approved placer or dredge mining~~ permit. Nurse crops such as rye, oats, and wheat may be used as a substitute for mulch where they will provide adequate protection and will be replaced by permanent species within a reasonable length of time. (3-18-22)( )

**164. Permanent Cessation and Time Limits for Planting.** ( )

a. Wherever possible, but not later than one (1) year after grading, seeding and planting of disturbed lands ~~must will~~ be completed during the first favorable growth period after seedbed preparation. If permanent vegetation is delayed or slow in establishment, temporary cover of small annual grains, grasses, or legumes may be used to control erosion until adequate permanent cover is established. (3-18-22)( )

b. Reclamation activities should be concurrent with the mining operation and may be included in the approved ~~placer or dredge mining permit and reclamation plan.~~ Final reclamation of the permit area or any part of the permit area must begin within one (1) year after the placer or dredge mining operations have permanently ceased ~~on a mine panel. If the Permittee permanently ceases disposing of overburden on a waste area or permanently ceases removing minerals from a pit or permanently ceases using a road or other disturbed land, the reclamation activity on each given area must start within one (1) year of such cessation, despite the fact that all operations as to the mine panel, which included such pit, road, overburden pile, or other disturbed land, has not permanently ceased on those parts of the permit area.~~ (3-18-22)( )

c. A Permittee will be presumed to have permanently ceased placer or dredge mining operations on a given portion of disturbed land where no substantial amount of mineral or overburden material has been removed or overburden placed on an overburden dump, or no significant use has been made of a road during the previous one (1)

year. ( )

d. If a Permittee does not plan to use disturbed land for one (1) or more years but intends thereafter to use the disturbed land for placer or dredge mining operations and desires to defer final reclamation until after its subsequent use, the Permittee must submit written a notice of intent and request for deferral of reclamation to the Director Department, in writing. If the Director Department determines that the Permittee plans to continue the operation within a reasonable period of time, the Director Department will notify the Permittee and may require actions to be taken to reduce degradation of surface resources stabilize stockpiles and maintain water quality until operations resume. If the Director Department determines that the use of the disturbed land for placer or dredge mining operations will not be continued within a reasonable period of time, the Director Department will proceed as though the placer or dredge mining operation has been abandoned, but the Permittee Department will be notified notify the Permittee of such decision at least thirty (30) days before taking any formal administrative action. (3-18-22)( )

**175. Revegetation Activities.** ( )

a. The Permittee must select and establish plant species that can be expected to result in vegetation comparable to that growing on the disturbed lands prior to placer or dredge mining operations or other species that will be conducive to the post-mining use of the disturbed lands. The Permittee may use available technical data and results of field tests for selecting seeding practices and soil amendments that will result in viable revegetation. ( )

b. Standards for success of revegetation. Revegetative success, unless otherwise specified in the approved placer mining permit and reclamation plan, is measured against the existing vegetation at the site prior to mining, or an adjacent reference area supporting similar vegetation. (3-18-22)( )

c. The ground cover of living plants on the revegetated area must be comparable to the ground cover of living plants on the adjacent reference area for two (2) full growing seasons after cessation of soil amendment or irrigation. ( )

d. For purposes of this rule, ground cover is considered comparable if it has, on the area actually planted, at least seventy percent (70%) of the premining ground cover for the mined land or adjacent reference area. ( )

e. For locations with an average annual precipitation of more than twenty-six (26) inches, the Director, in approving a placer mining permit, may set a minimum standard for success of revegetation as follows: ( )

i. Vegetative cover of seventy percent (70%) for two (2) full growing seasons in areas planted to herbaceous species only; or ( )

ii. Fifty percent (50%) vegetative cover for two (2) full growing seasons and six hundred (600) woody plants per acre in areas planted to a mixture of herbaceous and woody species. ( )

f. As used in this section, “herbaceous species” means grasses, legumes, and other forbs; “woody plants” means woody shrubs, trees, and vines; and “ground cover” means the area of the ground surface covered by the combined aerial parts of vegetation and the litter that is produced naturally on-site, expressed as a percentage of the total area measurement. Rock surface areas, composed of rock three plus (3+) inches in diameter will be excluded from this calculation. For purposes of measuring ground cover, rock greater than three (3) inches in diameter is considered as ground cover. ( )

g. For pPreviously mined areas that were not reclaimed to the standards lack sufficient topsoil and are re-disturbed by a placer or dredge mining operation are not required by to meet the revegetation standards in Section 040, and that are disturbed by the placer or dredge mining operations, but vegetation must be established to the extent necessary to control erosion, but and may not be less than that which existed before re-disturbance. (3-18-22)( )

h. Introduced species may be planted if they are comparable to previous vegetation, or if known to be

of equal or superior use for the approved post-mining use of the disturbed land, or, if necessary, to achieve a quick, temporary cover for soil stabilization purposes. Species classified as poisonous, ~~or~~ noxious weeds, or invasive may not be used in revegetation. (3-18-22)( )

i. By mutual agreement of the ~~Director~~ Department, the landowner, and the Permittee, a site may be converted to a different, more desirable, or more economically suitable habitat. (3-18-22)( )

j. Planting of grasses and forbs should be done in a manner which promotes rapid stabilization of the soil surface. Wherever terrain permits, grasses and forbs should be drilled or compacted into the ground using agricultural grass planting equipment or other seeders specifically designed for mine revegetation applications. Broadcast and hydroseeding may be used on areas where other methods are impractical or unavailable. ( )

k. The Permittee should plant shrubs or shrub seed, as required, where shrub communities existed prior to mining. Shrub seed may be planted as a portion of a grass seed mix or planted as bare-root transplants after grass seeding. Where the landowner desires a specific land use such as grazing or cropland, shrubs will not be required in the revegetation species mix. Shrub lands undergoing revegetation with shrubs must be protected from erosion by vegetation, chemical, or other acceptable means during establishment of the shrubs. ( )

l. Reforestation -- Tree stocking of forestlands should meet the following criteria: ( )

i. Trees that are adapted to the site should be planted on the land to be revegetated, in a density which can be expected over time to yield a timber stand comparable to premining timber stands. This in no way is to exclude the conversion of sites to a different, more desirable, or more economically suited species; ( )

ii. Trees must be established for two (2) full growing seasons after cessation of any soil amendments and irrigation before they are considered to be established; and ( )

iii. Forest lands undergoing revegetation with trees should be protected from erosion by vegetation, chemical binders, or other acceptable means during seedling establishment. ( )

m. Revegetation is not required on the following areas: ( )

i. Disturbed lands, or portions thereof, where planting is not practicable or reasonable because the soil is composed of excessive amounts of sand, gravel, shale, stone, or other material to such an extent to prohibit plant growth; ( )

ii. Any mined land or overburden piles proposed to be used in the mining operations; ( )

iii. Any mined land or overburden pile, where lakes are formed by rainfall or drainage run-off from adjoining lands; ( )

iv. Any mineral stockpile; ( )

v. Any exploration trench which will become a part of any pit or overburden disposal area; and ( )

vi. Any road which is to be used in mining operations, so long as the road is not abandoned. ( )

**041. -- 049. (RESERVED)**

**050. TERMINATION OF A PERMIT.**

**01. Completion of Reclamation.** A ~~placer or dredge mining~~ permit ~~terminates~~ may be retired upon completion of all reclamation activity to the standards specified in the permit ~~and reclamation plan~~, and these rules, a written request from the Permittee, and after final inspection and approval has been granted by the ~~Director~~ Department. Upon ~~termination permit retirement~~, the ~~Director~~ Department will release the remaining ~~portion of the~~ bond. (3-18-22)( )

**02. Involuntary Termination.** For continuous operation, the bonded permit will remain valid. Administrative action may be taken to terminate a ~~placer and dredge mining~~ permit if: (3-18-22)( )

- a. The permit does not remain bonded; ( )
- b. The placer and dredge mining operations are not commenced within two (2) years of the date of Board approval; ( )
- c. The placer and dredge mining operations are permanently ceased and final reclamation has not commenced within one (1) year of the date of permanent cessation; ( )
- d. Inspection ~~costs~~ fees are delinquent; or (3-18-22)( )
- e. Permittee fails to comply with the aAct, these rules, or the permit, ~~or the reclamation plan.~~ (3-18-22)( )

**051. ENFORCEMENT AND FAILURE TO COMPLY.**

**01. Inspection.** The ~~Director~~ Department may inspect the operation under permit ~~from time to time~~ to determine compliance with the aAct, these rules, and the permit, ~~and the reclamation plan.~~ The Permittee will pay the cost and expense of such inspections ~~will be borne by the Permittee as required by Section 47-1317, Idaho Code.~~ (3-18-22)( )

a. Cost of inspection is assessed at a flat rate of ~~two hundred and fifty~~ four hundred thirty five dollars (\$~~250~~435) per year for each permit. ~~Permits upon U.S. Forest Service administered lands is assessed at a flat rate of one hundred dollars (\$100) per year for each permit, to reflect the reduced inspection work for the department.~~ (3-18-22)( )

b. A billing for inspection ~~costs~~ fees will be made in advance each May 1, with the ~~costs~~ bill due and payable within thirty (30) days of receipt ~~of an inspection cost statement. Inspection fees become delinquent if not paid on or before June 1, and the department may assess the greater of the following: either a twenty five dollars (\$25) late payment charge or penalty at the rate of one percent (1%) for each calendar month or fraction thereof, compounded monthly, for late payments from the date the inspection fee is due. Such costs constitute a lien upon equipment, personal property, or real property of the Permittee and upon minerals produced from the permit area. Should inspection fees be delinquent, the department will send a single notice of delinquent payment by certified mail, return receipt requested, to the Permittee. If payment is not received by the department within thirty (30) days from the date of receipt, the department may take appropriate administrative action to cancel the permit as provided by Subsection 050.02. Fees not received by the due date are considered late.~~ (3-18-22)( )

c. Late inspection fees will result in the following monthly charges. ( )

i. A late charge of twenty-five dollars (\$25) or one percent (1%) of the unpaid principal obligation, whichever is greater. ( )

ii. An interest charge of one percent (1%) on the unpaid principal obligation. ( )

d. Failure to pay the inspection fees may result in permit termination and the Department placing a lien upon the Permittee's equipment, personal property, or real property and upon minerals produced from the permit area. ( )

ee. Inspection ~~costs~~ fees related to a reported violation are assessed at actual costs and in addition to ~~those costs~~ the fees in Paragraph 051.01.a. Costs include mileage to and from the mine site, employee meals, lodging, personnel costs, and administrative overhead. ~~Costs~~ Fees are due and payable thirty (30) days after receipt of the inspection cost statement. (3-18-22)( )

**02. Department Remedies.** Without affecting the penal and injunctive provisions of these rules, the

~~d~~Department may pursue the following remedies: (3-18-22)( )

~~a.~~ When the ~~Director~~ Department determines that a Permittee has not complied with the ~~a~~Act, these rules, ~~or the permit, or the reclamation plan,~~ the ~~Director~~ Department will notify the Permittee in writing and set forth the violations claimed and the corrective actions needed. (3-18-22)( )

~~b.~~ If the Permittee fails to ~~commence and diligently proceed to~~ complete the requested corrective action ~~or enter a cooperative agreement as per Subsection 035.07 of these rules~~ within a specified number of days after ~~the timeframe given in the~~ notice of the violation, ~~unless a cooperative agreement has been reached pursuant to Subsection 035.09,~~ the Director may take ~~administrative action as provided within this rule~~ to terminate the permit and forfeit the bond ~~as provided in Sections 47-1318, 1319, and 1329, Idaho Code.~~ (3-18-22)( )

~~c.~~ The Board ~~may cause to have issued and served upon the Permittee alleged to be committing such violation, a formal complaint that specifies the provisions of the act, the permit, the reclamation plan, or these rules which the Permittee allegedly is violating, and a statement of the manner in and the extent to which said Permittee is alleged to be violating the provisions of the act, the permit, the reclamation plan, or these rules. Such complaint may be served by certified mail, and return receipt, signed by the Permittee, an officer of a corporate Permittee, or the designated agent of the Permittee, will constitute service.~~ (3-18-22)

~~d.~~ The Permittee is required to answer the formal complaint and request a hearing before a hearing officer appointed by the Director, which authority to appoint is hereby delegated by the Board to the Director, within thirty (30) days of receipt of the complaint if matters asserted in the complaint are disputed. The hearing will be held at a time not less than thirty (30) days after the date the Permittee requests such a hearing. The Board will issue subpoenas at the request of the Director and at the request of the charged Permittee. The hearing will be conducted in accordance with Sections 67-5209 through 67-5213, Idaho Code, and these rules. (3-18-22)

~~e.~~ The hearing officer will enter an order in accordance with Section 67-5212, Idaho Code, that, if adverse to the Permittee, will designate a time period within which prescribed corrective action, if any, should be taken. The designated time period will be sufficient to allow a reasonably diligent Permittee to correct any violation. Procedure for appeal of an order is outlined in Subsection 002.01. (3-18-22)

~~f.~~ Upon the Permittee's compliance with the order, the Director will consider the matter resolved and take no further action with respect to such noncompliance. (3-18-22)

~~g.~~ If the Permittee fails to answer the complaint and request a hearing, the matters asserted in the complaint will be deemed admitted by the Permittee, and the Director may proceed to cancel the placer mining permit and forfeit the bond in the amount necessary to pay all costs and expense of restoring the lands and beds of streams damaged by dredge or other placer mining of said defaulting Permittee and covered by such bond and remaining unrestored, including the department's administrative costs. (3-18-22)

~~03. Violation of an Order.~~ Upon request of the Director, the attorney general may institute proceedings to have the bond of a Permittee forfeited for violation of an order entered pursuant to Subsection 051.02.e. (3-18-22)

**~~043.~~ Injunctive Procedures.** ( )

~~a.~~ The Director may seek injunctive relief, as provided by Section 47-1324(b), Idaho Code, against any ~~a~~ Permittee who is conducting placer mining or exploration operations when: or other person who violates the Act, these rules, or an approved permit. (3-18-22)( )

~~i.~~ Under an existing approved permit, reclamation plan, and bond, a Permittee violates or exceeds the terms of the permit; (3-18-22)

~~ii.~~ A Permittee violates a provision of the act or these rules; or (3-18-22)

~~iii.~~ The bond, if forfeited, would not be sufficient to adequately restore the land; (3-18-22)



~~b.~~ The Director may seek injunctive relief to enjoin a placer mining operation for the Permittee's violation of the terms of an existing approved permit, the reclamation plan, the act, and these rules, and if immediate and irreparable injury, loss, or damage to the state may be expected to occur. (3-18-22)

~~e.~~ The Director will request the court to terminate any injunction when he determines that all conditions, practices, or violations listed in the order have been abated. Termination will not affect the right of the department to pursue civil penalties for these violations in accordance with Subsection 051.06. (3-18-22)

~~05. Civil Action.~~ In addition to the injunctive provisions above, the Board may maintain a civil action against any person who violates any provision of the act or these rules, to collect civil damages in an amount sufficient to pay for all the damages to the state caused by such violation, including but not limited to, costs of restoration in accordance with Section 47-1314, Idaho Code, where a person is conducting placer or dredge mining without an approved permit or bond. (3-18-22)

~~064. Civil Penalty.~~ ( )

~~a.~~ Pursuant to Section 47-1324(d), Idaho Code, any person violating any of the provisions of the placer and dredge mining act or the Act, these rules or violating any determination or order pursuant to these rules, is a permit, or a related final order may be liable for a civil penalty of not less than equal to the cost of reclamation. An additional penalty of five hundred dollars (\$500) nor more than to two thousand five hundred dollars (\$2,500) may also be assessed for each day during which such a violation continues. Such penalty is recoverable in an action brought in the name of the state of Idaho by the attorney general. (3-18-22)( )

~~b.~~ Pursuant to Section 47-1324(f), Idaho Code, any person who willfully or knowingly falsifies any records, plans, specifications, or other information required by the Board or willfully fails, neglects, or refuses to comply with any of the provisions of these rules, is guilty of a misdemeanor and will be punished by a fine of not less than one thousand dollars (\$1,000) or more than five thousand dollars (\$5,000) or imprisonment, not to exceed one (1) year, or both. (3-18-22)( )

~~075. Hearing Procedures.~~ ( )

~~a.~~ Process and procedures under these rules will be as summary and simple as may be possible. The Director, Board, or any member thereof, or the hearing officer designated by the Director, has the power to subpoena witnesses and administer oaths. The District Court will enforce the attendance and testimony of witnesses and the production for examination of books, papers, and records. A stenographic record or other recording of the hearing will be made. Witnesses subpoenaed by the Director or the hearing officer will be allowed such fees and traveling expenses as are allowed in civil actions in the District Court, to be paid by the party in whose interest such witnesses are subpoenaed. The Board, Director, or hearing officer will make such inquiries and investigations as deemed relevant. Each hearing will be held at the county seat in the county where any of the lands involved in the hearing are situate, or in the County of Ada, as the Board or Director may designate. Hearings under Section 47-1318, Idaho Code, will be held as directed by Title 67, Chapter 52, Idaho Code. (3-18-22)( )

~~b.~~ A notice of hearing will be served by certified mail to the last known address of the Permittee or his agent at least twenty (20) days prior to the hearing. A certified return receipt signed by the Permittee or his agent constitutes service and time thereof. (3-18-22)

~~e.b.~~ The cost of such hearing including, but not limited to, room rental, hearing officer fees, and transcript will may be assessed against the defaulting Permittee as allowed by Section 47-1318, Idaho Code. The Director may designate a hearing officer to conduct any hearings and make findings of fact, conclusions of law, and decision on issues involving the administration of the act and these rules. (3-18-22)( )

~~d.~~ If the hearing involves a permit or application for a permit, the decisions of the Board or the hearing officer, together with the transcript of the evidence, findings of fact, and any other matter pertinent to the questions arising during any hearing will be filed in the office of the Director. A copy of the findings of fact and decision will be sent to the applicant or holder of the permit involved in such hearing, by U.S. mail. If the matter has been assigned for hearing and a claim for review is not filed by any party in the proceeding within thirty (30) days after his decision is filed, the decision may be adopted as the decision of the Board and notice thereof will be sent to

~~the applicant or permit holder involved in such hearing by U. S. mail. (3-18-22)~~

**06. Procedures for Appeals.** Any applicant or permit holder aggrieved by any final decision or order of the Board is entitled to judicial review in accordance with the provisions and standards set forth in Title 67, Chapter 52, Idaho Code, the Administrative Procedures Act. ( )

**052. -- 054. (RESERVED)**

**055. COMPUTATION OF TIME.**

Computation of time for these rules will be based on calendar days. In computing any period of prescribed time, the day on which the designated period of time begins is not included. The last day of the period is included unless it is a Saturday, Sunday, or legal state holiday. In such a case, the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. Intermediate Saturdays, Sundays, or legal holidays are excluded from the computation when the period of prescribed time is seven (7) days or less. (3-18-22)

**056. -- 059. (RESERVED)**

**060. PLACER OR DREDGE MINING OF CERTAIN WATERBODIES PROHIBITED.**

~~01. Prohibited Areas. Placer or dredge mining in any form is prohibited on water bodies making up the national wild and scenic river system: (3-18-22)~~

~~a. The Middle Fork of the Clearwater River, from the town of Kooskia upstream to the town of Lowell; the Lochsa River from its junction with the Selway at Lowell forming the Middle Fork upstream to the Powell Ranger Station; and the Selway River from Lowell upstream to its origin; (3-18-22)~~

~~b. The Middle Fork of the Salmon River, from its origin to its confluence with the main Salmon River; (3-18-22)~~

~~c. The St. Joe River, including tributaries, from its origin to its confluence with Coeur d'Alene Lake, except for the St. Maries River and its tributaries. (3-18-22)~~

~~02. Mining Withdrawals. The Board, under authority provided by Title 47, Chapter 7, Idaho Code, has withdrawn certain other lands from placer and dredge mining. A listing of such withdrawals is available from the administrative offices of the Department. (3-18-22)~~

~~061. -- 064. (RESERVED)~~

**065. DEPOSIT OF FORFEITURES AND DAMAGES.**

**01. Mining Account.** All monies, forfeitures, and penalties collected under the provisions of these rules will be deposited in the ~~Placer and Dredge~~ **and Placer** Mining Account to be used ~~by the Director for placer and dredge mine reclamation purposes and related administrative costs~~ **as directed by Section 47-1319, Idaho Code.** (3-18-22)( )

~~02. Funds for Reclamation. Upon approval of the Board, monies in the account may be used to reclaim lands for which the forfeited bond was insufficient to reclaim in accord with these rules, or for placer or dredge mine sites for which the bond has been released and which have resulted in subsequent damage. Monies received from inspection fees are to be kept separate and used for costs incurred by the Director in conducting such inspections. (3-18-22)~~

**066. -- 069. (RESERVED)**

**070. COMPLIANCE OF EXISTING PLANS WITH THESE RULES.**

These rules, upon their adoption, apply as appropriate to all existing placer or dredge mining operations, but will not affect the validity or modify the duties, terms, or conditions of any existing approved placer or dredge mining permits or impose any additional obligations with respect to reclamation upon any Permittee conducting placer or dredge

mining operations pursuant to a placer or dredge mining permit approved prior to ~~adoption of these rules~~ May 1, 2024. ~~(3-18-22)~~ ( )

**071. -- 999. (RESERVED)**

**IDAPA 20 – IDAHO DEPARTMENT OF LANDS**  
**20.03.03 – RULES GOVERNING ADMINISTRATION OF THE RECLAMATION FUND**  
**DOCKET NO. 20-0303-2301 (ZBR CHAPTER REWRITE, FEE RULE)**  
**NOTICE OF RULEMAKING – PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 58-104(6) and 58-105, Idaho Code, and Title 47, Chapter 18, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 20, 2023.

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

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

Following [Executive Order 2020-01, Zero-Based Regulation](#), this rule chapter is scheduled to be repealed and replaced in 2023 for review during the 2024 legislative session. The overall regulatory burden has been reduced by decreasing both total word count and the number of restrictive words in the new rule chapter. The late payment policy was updated.

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

A monthly late fee of the greater of twenty-five dollars (\$25) or one percent (1%) of the unpaid principal, and an interest charge of one percent (1%) on the unpaid principal.

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 5, 2023, Idaho Administrative Bulletin, [Vol. 23-4, pages 38–39](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Eric Wilson at (208) 334-0261 or [ewilson@idl.idaho.gov](mailto:ewilson@idl.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2023.

DATED this 6th day of September, 2023.

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

**THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 20-0303-2301**  
**(ZBR Chapter Rewrite)**

**20.03.03 – RULES GOVERNING ADMINISTRATION OF THE RECLAMATION FUND**

**000. LEGAL AUTHORITY.**

These rules are promulgated by the ~~Idaho State~~ Board of Land Commissioners under Sections 58-104(3) and (6) and 58-105, Idaho Code, and Title 47, Chapter 18, Idaho Code. The Board has delegated to the Director of the Idaho Department of Lands the duties and powers under Title 47, Chapter 18, Idaho Code and these rules, ~~except that the Board retains responsibility for administrative review.~~ (3-18-22)( )

**001. TITLE AND SCOPE.**

~~01. Title.~~ These rules are titled IDAPA 20.03.03, “Rules Governing Administration of the Reclamation Fund,” IDAPA 20, Title 03, Chapter 03. (3-18-22)

~~02. Scope.~~ These rules constitute the Department’s administrative procedures and participation criteria for the Reclamation Fund, which is for implementation of the Act with the intent to provide an alternative form of financial assurance for certain mines in Idaho. These rules are to be construed in a manner consistent with the duties and responsibilities of the Board and of operators, permit holders, or lessees as set forth in ~~Title 47, Chapter 7, Idaho Code, “Mineral Rights in State Lands;” Title 47, Chapter 13, Idaho Code, “Dredge Mining Act;” Title 47, Chapter 15, Idaho Code, “Mined Land Reclamation Act;” Title 47, Chapter 18, Idaho Code, “Financial Assurance;”~~ IDAPA 20.03.01, “Dredge and Placer Mining Operations in Idaho;” IDAPA 20.03.02, “Rules Governing Mined Land Reclamation;” and IDAPA 20.03.05, “Riverbed Mineral Leasing In Idaho.” (3-18-22)( )

~~002. ADMINISTRATIVE APPEALS.~~

~~Any person aggrieved by a final agency action or a party aggrieved by a final order of the Board arising from its administration of the Reclamation Fund Act is entitled to judicial review pursuant to the provisions of Title 67, Chapter 52, Idaho Code, “Administrative Procedure Act,” and IDAPA 20.01.01, “Rules of Practice and Procedure Before the State Board of Land Commissioners.”~~ (3-18-22)

~~003.~~ -- 009. (RESERVED)

**010. DEFINITIONS.**

Except as provided in these rules, the Board adopts the definitions set forth in the Mineral ~~Leasing Act~~ Rights in State Lands, the Dredge Mining Act, and the Mined Land Reclamation Act. As used in these rules: (3-18-22)( )

**01. Actual Allowable Cost.** The allowable total reclamation cost as set by the Board to allow participation in the Reclamation Fund. ( )

**02. Actual Allowable Disturbance.** The area of disturbed acres or affected land as set by the Board to allow participation in the Reclamation Fund. ( )

**03. Board.** The Idaho State Board of Land Commissioners or its authorized representative. ( )

**04. Department.** The Idaho Department of Lands. ( )

**05. Disturbed Acres; Affected Lands.** ( )

**a.** Any land, natural watercourses, or existing stockpiles or waste piles affected by placer or dredge mining, remining, exploration, stockpiling of ore, waste from placer or dredge mining, or construction of roads,

settling ponds, structures, or facilities appurtenant to a placer or dredge mine: ( )

**b.** The land area included in overburden disposal areas, mined areas, mineral stockpiles, roads, tailings ponds, and other areas disturbed at a mine: and ( )

**c.** The land area disturbed by motorized exploration of state land under a mineral lease. (3-18-22)( )

**06. Dredge Mining Act.** Title 47, Chapter 13, Idaho Code, and IDAPA 20.03.01, “Dredge and Placer Mining Operations in Idaho.” (3-18-22)

**07. Financial Assurance.** ( )

**a.** Cash, corporate surety bond, collateral bond, or letter of credit as described in the Dredge Mining Act, the Mineral ~~Leasing Act, or a mineral lease.~~ Rights in State Lands; and ( )

**b.** Financial assurance as defined in the Mined Land Reclamation Act. (3-18-22)( )

**08. Mine; Mine Panel.** All areas designated by the operator on the map or plan submitted pursuant to Section 47-703A, Idaho Code, or Section 47-1506, Idaho Code, or as an identifiable portion of a placer or dredge mine on the map submitted under Section 47-1317, Idaho Code. ( )

**09. Mined Land Reclamation Act.** Title 47, Chapter 15, Idaho Code, and IDAPA 20.03.02, “Rules Governing Mined Land Reclamation.” ( )

**10. Mineral Lease.** Lease executed by the Board and the mineral lessee pursuant to the Mineral ~~Leasing Act~~ Rights in State Lands. (3-18-22)( )

**11. Mineral Lessee.** The lessee of a mineral lease. ( )

**12. Mineral ~~Leasing Act~~ Rights in State Lands.** Title 47, Chapter 7, Idaho Code. ( )

**13. Mining Reclamation Plan.** Any reclamation plan approved pursuant to the Mined Land Reclamation Act. ( )

**14. Motorized Exploration.** Exploration which may appreciably disturb or damage the land or resources thereon. Motorized exploration includes, but is not limited to, drilling, trenching, dredging, or other techniques which employ the use of earth moving equipment, seismic operations using explosives, and includes sampling with a suction dredge having an intake diameter greater than two (2) inches when operated in a perennial stream. When operated in an intermittent stream, suction dredges ~~shall~~ will be considered motorized exploration regardless of intake size. (3-18-22)( )

**15. Operator.** Any person or entity authorized to conduct business in Idaho, partnership, joint venture, or public or governmental agency required to have any reclamation plan under the Mined Land Reclamation Act or the Mineral ~~Leasing Act~~ Rights in State Lands, or a permit under the Dredge Mining Act, whether individually or jointly through subsidiaries, agents, employees, or contractors. (3-18-22)( )

**16. Permit.** Dredge or placer mining permit issued pursuant to the Dredge Mining Act. ( )

**17. Reclamation Fund.** The interest-bearing dedicated fund authorized pursuant to the Reclamation Fund Act. ( )

**18. Reclamation Fund Act.** Title 47, Chapter 18, Idaho Code, and IDAPA 20.03.03, “Rules Governing Administration of the Reclamation Fund.” ( )

**011. -- 015. (RESERVED)**

**016. REQUIRED PARTICIPANTS.**

Any operator, with the exception of the mines and operators listed in Sections 017 ~~and 019~~ of these rules, ~~shall~~ will be required to provide alternative financial assurance through the Reclamation Fund to assure the reclamation of disturbed acres or affected lands. Alternative financial assurance pursuant to the Reclamation Fund Act is in lieu of other types of financial assurance as set forth in the Mined Land Reclamation Act, the Mineral ~~Leasing Act~~ Rights in State Lands, or the Dredge Mining Act. (3-18-22)(    )

**017. INELIGIBLE MINES OR OPERATORS.**

The following types of mines and operators are not allowed to participate in the Reclamation Fund and must file proof of other acceptable financial assurance as required by the Department. ( )

**01. Disturbed Acres Limit.** A mine or mineral lease with un-reclaimed disturbed acres in excess of the actual allowable disturbance may not provide alternative financial assurance through the Reclamation Fund. Un-reclaimed disturbance is that which does not meet the final financial assurance release criteria in the Dredge Mining Act, the Mined Land Reclamation Act, ~~or a mineral lease~~ the Mineral Rights in State Lands. (3-18-22)(    )

**02. Reclamation Cost Limit.** Operators with an estimated reclamation cost in excess of the actual allowable reclamation cost, regardless of the disturbed acres. ( )

**03. Phosphate Mines.** Operators or mineral lessees of phosphate mines. ( )

**04. Hardrock Mines.** Operators or mineral lessees of hardrock mines such as gold, silver, molybdenum, copper, lead, zinc, cobalt, and other precious ~~or base~~ metal mines. (3-18-22)(    )

**05. Potential Heavy Metal Releases.** Operators of mines with a reasonable potential to release heavy metals or other substances harmful to human health or the environment, but not including substances such as fuels and other materials commonly used in excavation or construction. ( )

**06. Oil and Gas Conservation.** Oil and gas exploration and development under Title 47, Chapter 3, Idaho Code. ( )

**07. Oil and Gas Leasing.** Oil and gas leases and associated exploration and development under Title 47, Chapter 8, Idaho Code. ( )

**08. Geothermal.** Operators or mineral lessees of geothermal wells and development under Title 47, Chapter 16, Idaho Code. ( )

**09. Off Lease Exploration.** Motorized exploration on state lands that are not under a mineral lease or exploration location. ( )

**10. Violators.** Mines or operators in violation of the ~~Reclamation Fund~~ Act, Dredge Mining Act, Mined Land Reclamation Act, ~~or Mineral Leasing Act, or a mineral lease~~ Rights in State Lands. (3-18-22)(    )

**11. Reclamation Fund Forfeitures.** Operators, permittees or lessees who have not reimbursed the Reclamation Fund for a forfeiture from the Reclamation Fund due to their violations of the Reclamation Fund Act, Dredge Mining Act, Mined Land Reclamation Act, ~~or Mineral Leasing Act, or a mineral lease~~ Rights in State Lands. (3-18-22)(    )

**12. Other Forfeitures.** An operator who has forfeited any financial assurance. ( )

**13. Operators Providing Acceptable Financial Assurance.** An operator who provides proof of financial assurance accepted by the Department that is greater than or equal to the minimum dollar per acre for each acre of affected land at a mine. ( )

**018. ACREAGE AND RECLAMATION COST LIMITATIONS.**

**01. Actual Allowable Participation.** The Board will establish by policy the actual allowable

disturbance, actual allowable reclamation cost, and the minimum dollar per acre of disturbance in order to provide financial assurance to opt out of participation in the Reclamation Fund. ( )

**02. Maximum Disturbance and Reclamation Cost.** ~~The maximum disturbance and maximum reclamation costs in these rules are maximums.~~ The maximum allowable disturbance is eighty (80) acres; the maximum allowable reclamation cost is four hundred forty thousand dollars (\$440,000). ~~(3-18-22)( )~~

**03. Multiple Plans or Permits.** An operator who has multiple mining reclamation plans or permits that have a total disturbance in excess of the actual allowable disturbance, or with total reclamation costs in excess of the actual allowable reclamation cost, may participate in the Reclamation Fund with one (1) or more sites that together contain less than both of the Board-established actual allowable limits. ( )

**019. OPTIONAL PARTICIPATION.**

Operators who have one (1) or more mines or mineral leases that are ineligible to participate in the Reclamation Fund as set forth in Section 017 ~~or 018~~ of these rules may choose to not participate in the Reclamation Fund with respect to all other eligible mines or mineral leases in their name. An operator who does not participate in the Reclamation Fund must secure all mines with other types of financial assurance approved by the Department. ~~(3-18-22)( )~~

**020. FEDERAL AGENCY NON-ACCEPTANCE OF RECLAMATION FUND.**

If a federal agency will not accept an operator's participation in the Reclamation Fund as proof of reclamation security, the operator will be required to provide the Department with proof of other types of financial assurance acceptable to the Department and the federal agency. ~~(3-18-22)( )~~

**021. -- 025. (RESERVED)**

**026. PAYMENT.**

**01. Board Approved Payment Schedule.** The Board will adopt a payment schedule that ~~determines~~ sets the annual Reclamation Fund payment for each operator participating in the Reclamation Fund. Any changes to the payment schedule will must be approved by the Board. ~~Participating operators shall pay all required payments annually. New participants will be assessed a pro-rated payment based on the Department's established billing cycle.~~ ~~(3-18-22)( )~~

**02. Acreage Calculation.** The annual payment for each participant in the Reclamation Fund will be established based upon the number of disturbed acres at each mine. The acres used to calculate the annual payment will include the total current disturbed acres of affected lands and the acres planned to be disturbed or affected during the next twelve (12) months. The total acreage calculation will not be rounded when determining annual payments. ( )

**03. Annual Payments Non-Refundable.** Payments to the Reclamation Fund will be billed annually and are non-refundable. ~~Payments will be billed annually and, if not timely paid, will accrue late fees and interest as established by the Board. New participants will be assessed a pro-rated payment based on the Department's established billing cycle.~~ ~~(3-18-22)( )~~

**04. Late Payments.** Payments not received by the due date are considered late and will result in the following monthly charges: ( )

**a.** A late charge of twenty-five dollars (\$25) or one percent (1%) of the unpaid principal obligation, whichever is greater, and ( )

**b.** An interest charge of one percent (1%) on the unpaid principal obligation. ( )

**045. Supplemental Payments.** If an operator affects more acreage than the acreage secured through the Reclamation Fund for a current period, the Department may require supplemental Reclamation Fund payments. ( )

**056. Assignment.** When a mineral lease, mining reclamation plan, or permit is assigned, all financial



assurance requirements must be assumed by the new operator. No Reclamation Fund payments will be refunded following an assignment. If the new operator is ineligible to participate in the Reclamation Fund, the new operator must provide proof of other acceptable financial assurance before the assignment may be approved. ( )

**067. Non-Payment Constitutes Lack of Bonding.** For any operator participating in the Reclamation Fund, non-payment of the annual payment ~~shall~~ will be considered a failure to provide financial assurance as required by the Dredge Mining Act, the Mined Land Reclamation Act, or Mineral ~~Leasing Act, or a mineral lease~~ Rights in State Lands. (3-18-22)( )

**027. -- 030. (RESERVED)**

**031. ENFORCEMENT AND FAILURE TO COMPLY.**

**01. Forfeiture.** Prior to withdrawing monies from the Reclamation Fund due to a violation of the Dredge Mining Act, the Mined Land Reclamation Act, or Mineral ~~Leasing Act, or a mineral lease~~ Rights in State Lands, the Department will comply with the respective financial assurance forfeiture procedures. (3-18-22)( )

**02. Penalties.** If an operator fails to provide financial assurance as required by these rules or has forfeited monies from the Reclamation Fund and has not repaid those monies, the Board ~~shall be~~ is authorized to file liens against personal property and equipment of the operator to recover costs. The operator ~~shall be~~ is liable for actual costs of all unpaid annual payments, interest, and late payment charges, the actual reclamation costs, and administrative costs incurred by the Department in reclaiming the disturbed or affected lands. Authorization to obtain a lien under these rules and Section 47-1804, Idaho Code, ~~shall be~~ is in addition to, not in lieu of, any other legal remedy available to the Board and the Department pursuant to the Dredge Mining Act, Mined Land Reclamation Act, or Mineral ~~Leasing Act, or a mineral lease~~ Rights in State Lands. (3-18-22)( )

**032. MINIMUM BALANCE FOR THE RECLAMATION FUND.**

The Board will determine a reasonable minimum balance for the Reclamation Fund. ( )

**033. -- 999. (RESERVED)**

**IDAPA 20 – IDAHO DEPARTMENT OF LANDS**  
**20.03.05 – NAVIGABLE WATERWAYS MINERAL LEASING IN IDAHO**  
**DOCKET NO. 20-0305-2301 (ZBR CHAPTER REWRITE, FEE RULE)**  
**NOTICE OF RULEMAKING – PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 58-104(6) and 58-105, Idaho Code, and Section 47-7, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 20, 2023.

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

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

Following [Executive Order 2020-01, Zero-Based Regulation](#), this rule chapter is scheduled to be repealed and replaced in 2023 for review during the 2024 legislative session. 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 revised wording in the rule will now cover all navigable waterways rather than just rivers.

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

The \$50 lease application fee in place since 1991 is increased to \$425. The application advertising fee is increased from \$45 to \$75. The exploration location fee is increased from \$250 to \$500. The \$50 assignment fee is increased to \$200. These fees are being imposed pursuant to Sections 58-104 and 58-127, Idaho Code, and Section 47-7, Idaho Code.

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 5, 2023, Idaho Administrative Bulletin, [Vol. 23-4, pages 40-41](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Marde Mensinger at (208) 334-0248 or [mmensinger@idl.idaho.gov](mailto:mmensinger@idl.idaho.gov). Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2023.

DATED this 6th day of September, 2023.

Marde Mensinger, Navigable Waterways Program Manager  
Idaho Department of Lands  
300 N. 6th Street, Suite 103  
Boise, Idaho 83720-0050  
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THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 20-0305-2301  
(ZBR Chapter Rewrite)

20.03.05 – ~~RIVERBED~~ **Navigable Waterways** MINERAL LEASING IN IDAHO

000. AUTHORITY.

~~01. Statutory Authority.~~ These rules are promulgated by the ~~Idaho State Board of Land Commissioners~~ pursuant to Title 47, ~~Chapter 7, Idaho Code,~~ and Title 58, Chapters ~~7 and 1,~~ **Idaho Code** Sections ~~47-710, 47-714 and 58-104, Idaho Code.~~ (3-18-22)(    )

~~02. Discretionary Powers.~~ The Board of Land Commissioners is delegated discretionary power to regulate and control the use or disposition of lands in the beds of navigable lakes, rivers, and streams, to the natural or ordinary high water mark thereof, so as to provide for their commercial, navigational, recreational or other public use; provided that the Board will take no action in derogation of or seeking to interfere with the riparian or littoral rights of the owners of upland property abutting or adjoining such lands. (Section ~~58-104(9), Idaho Code.~~ (3-18-22)

001. ~~TITLE AND SCOPE.~~

~~01. Title.~~ These rules are titled IDAPA 20.03.05, “Riverbed Mineral Leasing in Idaho.” (3-18-22)

~~02. Where Applicable.~~ These rules apply to the exploration and extraction of ~~precious metals, minerals, and construction materials~~ **salable minerals** from a ~~placer deposit situated in state-owned submerged lands~~ **navigable waterways.** (3-18-22)(    )

~~03. Where Not Applicable.~~ These rules do not apply to the ~~application~~ **exploration** and leasing of geothermal resources ~~covered~~ by title 47, Chapter 16, Idaho Code, or to the ~~application~~ **exploration** and leasing of oil and gas resources covered by Title 47, Chapter 8, Idaho Code. (3-18-22)(    )

002. -- 009. (RESERVED)

010. DEFINITIONS.

~~01. Available State Lands.~~ All lands between the ordinary high water marks of a navigable river which have not been located, leased, or withdrawn. (3-18-22)

~~02. Board.~~ The **Idaho** State Board of Land Commissioners or its ~~authorized representative~~ **designee.** (3-18-22)(    )

~~03. Casual Exploration.~~ Entry and/or exploration which does not appreciably disturb or damage the land or resources thereon. Casual exploration includes, but is not limited to, geochemical and/or geophysical exploration techniques, sampling with hand tools, and entry using wheeled vehicles for transportation to conduct such exploration. Exploration using suction dredges having an intake diameter of two inches (2”) or less are considered casual exploration when operated in a perennial stream and authorized under the stream protection act, Title 42, Chapter 38, Idaho Code. Refer to Section 015 for further clarification regarding casual exploration and recreational mining. (3-18-22)

~~04. Commercial.~~ The type of operation that engages in the removal of ~~construction materials~~ **salable minerals** or uses suction dredges with an intake diameter larger than five inches (5”) or attendant power sources rated at greater than fifteen (15) horsepower and/or other motorized equipment. (3-18-22)(    )

- ~~05. Construction Materials. Sand, gravel, cobble, boulders, and other similar materials. (3-18-22)~~
- ~~03. Department. The Idaho Department of Lands. ( )~~
- ~~064. Director. The Director of the Idaho Department of Lands or his authorized representative designee. (3-18-22)( )~~
- ~~07. Motorized Exploration. Exploration that may appreciably disturb or damage the land or resources thereon. Motorized exploration includes, but is not limited to, drilling, trenching, dredging, or other techniques that employ the use of earth moving or other motorized equipment, seismic operations using explosives, and sampling with suction dredges having an intake diameter greater than two inches (2") when operated in a perennial stream. When operated in an intermittent stream, suction dredges are considered motorized exploration regardless of the intake size. (3-18-22)~~
- ~~085. Natural or Ordinary High Water Mark. The line that the water impresses upon the soil by covering it for sufficient periods of time to deprive the soil of its vegetation and destroy its value for agricultural purposes. When the soil, configuration of the surface, or vegetation has been altered by human activity, the natural or ordinary high water mark will be located where it would have been if this alteration had not occurred. (3-18-22)( )~~
- ~~096. Person. An individual, corporation, partnership, limited liability company, association, trust, unincorporated organization, or other legal entity qualified to do business in the state of Idaho, and any federal, state, county, or local unit of government. (3-18-22)( )~~
- ~~a. An individual of legal age; (3-18-22)~~
- ~~b. Any firm, association or corporation qualified to do business in the state of Idaho; or (3-18-22)~~
- ~~c. Any public agency or government unit, including without limitation, municipalities. (3-18-22)~~
- ~~10. Recreational Mining. Mining with a suction dredge having an intake diameter of five inches (5") or less, and attendant power sources, rated at fifteen (15) horsepower or less, pans, rockers, hand tools, hand operated sluices and other similar equipment. (3-18-22)~~
- ~~107. River Mile. Five thousand two hundred eighty (5,280) feet of contiguous riverbed as measured along the approximate center of the river. ( )~~
- ~~12. Navigable River. A natural water course of perceptible extent, with definite bed and banks, which confine and conducts continuously flowing water, and the bed of which is owned by the state of Idaho in trust. (3-18-22)~~
- ~~13. Submerged Lands. All state owned beds of navigable lakes, rivers, and streams between the natural or ordinary high water marks. (3-18-22)~~
- ~~08. State-Owned Navigable Waterways and Navigable Waterways. As used in these rules, the beds of all navigable rivers and lakes up to the natural or ordinary high water mark as of the date Idaho was admitted into statehood. This includes any such bed that was formerly submerged and subsequently filled, and is now uplands because of human activity (e.g., dikes, berms, jetties) or by natural processes, and includes islands within navigable waterways resulting from human activity or by natural processes. ( )~~
011. -- 014. (RESERVED)
015. CASUAL EXPLORATION ~~AND RECREATIONAL MINING.~~
01. Lands Open. All beds of navigable ~~rivers~~ waterways that have not been located, leased or withdrawn in accordance with statute or the terms of these rules, are free and open to casual exploration ~~and recreational mining~~ on a nonexclusive and first come basis. (3-18-22)( )

**02. Equipment Limitations.** Mining equipment for casual exploration that may occur prior to the filing of a location or lease application is limited to suction dredges with a ~~two five (25")~~ five (5") inch intake or less, ~~pans, rockers, hand tools, hand operated sluices and other similar equipment~~ and powered equipment rated at fifteen (15) HP or less, or non-powered sluice equipment. (3-18-22)(    )

**03. No Approval for Casual Exploration Required.** No written approval is required from the Director for casual exploration. ( )

~~**04. Recreational Mining Equipment.** Mining equipment for recreational mining is limited to suction dredges with an intake diameter of five (5") inches or less with attendant power sources rated at fifteen (15) horse power or less, pans, rockers, hand tools, hand operated sluices and other similar equipment. (3-18-22)~~

~~**05. Department of Water Resources Permits.** Possession of a valid Stream Protection Act Permit issued by the Idaho Department of Water Resources and a Recreational Mining Permit issued by the Idaho Department of Lands constitutes the Board's waiver of bond, waiver of royalty, and written approval to engage in recreational mining under Section 47-704(6), Idaho Code, and Title 47, Chapter 13, Idaho Code~~ Casual exploration requires a valid Stream Channel Alteration Permit issued by the Idaho Department of Water Resources. (3-18-22)(    )

~~**05. Lake Encroachment Permits.** An encroachment permit pursuant to Title 58, Chapter 13, Idaho Code is required prior to any mineral exploration or extraction in a navigable lake. ( )~~

~~**06. Department of Environmental Quality Permits.** Suction dredging requires a valid general or individual permit issued under the Idaho Pollutant Discharge Elimination System. ( )~~

**016. EXPLORATION LOCATIONS.**

**01. Lands Open.** The beds of navigable ~~rivers~~ waterways that have not been located or withdrawn, or are not under application to lease, in accordance with statute or the terms of these rules, are available for exploration location; provided that salable minerals are not subject to exploration location. Details of exploration locations on state lands can be found in Title 47, Chapter 7, Idaho Code. (3-18-22)(    )

**02. Size of Location.** Each exploration location is limited to one-half (1/2) mile in length on a navigable river or stream, or a 20-acre aliquot part on a navigable lake. (3-18-22)(    )

**03. Record Keeping Requirement~~d~~.** A locator must keep a record of all minerals recovered during exploration operations and must pay to the state a royalty of five percent (5%) of the gross value of the minerals recovered. Payment must be made each year with the filing of the assessment work report. (3-18-22)(    )

~~**04. When No Written Approval Required.** No written approval is required from the ~~Director~~ Department for ~~exploratory activity~~ casual exploration in a navigable river on an exploration location ~~when such exploration is limited to mining equipment such as suction dredges with a five (5") inch intake diameter or less and attendant power sources rated at fifteen (15) horsepower or less, pans, rockers, hand operated sluices, and other similar equipment; provided however, that recreational mining activity.~~ Casual exploration performed under a Recreational Mining Stream Channel Alteration Permit ~~as authorized under Section 015~~ does not serve to establish any basis for an exploration location. (3-18-22)(    )~~

**05. When Written Approval Required.** Written approval is required from the ~~Director~~ Department prior to entry for operators conducting motorized exploration ~~except as allowed in Subsection 016.04.~~ Approved operations must be bonded as outlined in Subsection 040.03~~2~~. (3-18-22)(    )

**017. -- 019. (RESERVED)**

**020. RIVERBED MINERAL LEASE.**

**01. Limitations on Suction Dredges.** Operators may not use suction dredges with an intake diameter

larger than five inches (5") or attendant power sources rated greater than fifteen (15) horsepower, except under lease. ( )

**02. Approval Required Before Operations.** Prior to entry upon navigable ~~rivers~~ waterways, operators are required to have written approval from the ~~Director~~ Department. (3-18-22)( )

**03. Bonding.** Approved operations must be bonded as outlined in Subsection 040.01. ( )

**04. Simultaneous Filings.** Two (2) or more lease applications received on the same date and hour, covering the same lands, are considered simultaneous filings. Simultaneous filings will be resolved by competitive bidding. ( )

**021. -- 024. (RESERVED)**

**025. PUBLIC NOTICE AND HEARING.**

**01. Publication of Notice.** Upon receipt by the Board of an application to lease any lands that may belong to the state of Idaho by reason of being situated between the high water marks of navigable ~~rivers of the state~~ waterways, the Board will cause at the expense of the applicant, a notice of such application to be published once a week for two (2) issues in a newspaper of general circulation in the county or counties in which said lands described in said application are situated. (3-18-22)( )

**02. Public Hearing.** The Board may order a public hearing on an application if it deems this action is in the best interest of the public. ( )

**03. Petition for Hearing.** The Board or its authorized representative will hold a public hearing on the application, if requested in writing no later than thirty (30) days after the last published notice by ten (10) person whose lawful rights to use the waters applied for may be injured thereby, or by an association presenting a petition with signatures of not less than ten (10) such aggrieved parties; provided that the Board may order a public hearing in the first instance. The Board will consider fully all written and oral submissions respecting the application. ( )

**026. -- 029. (RESERVED)**

**030. RENTAL AND ROYALTY AND LATE PAYMENTS.**

**01. Minimum Annual Rental.** The minimum annual rental is ~~one five~~ five hundred ~~sixty~~ hundred dollars (\$~~160~~500) ~~for any area up to one hundred sixty (160) acres, and one dollar (\$1) for each additional acre.~~ (3-18-22)( )

**02. Minimum Annual Royalty.** ~~In addition to the annual rental, the commercial lessee pays an annual minimum royalty of five hundred dollars (\$500) per year and all other lessees pay an annual minimum royalty of three hundred forty dollars (\$340) per year.~~ (3-18-22)

**03. Deduction of Royalty.** ~~The annual minimum royalty and the annual rental for any year is deducted from the actual production royalty as it accrues for that year.~~ (3-18-22)

**04. Royalty Schedule.** ~~The appropriate Board approved~~ A royalty schedule ~~for each~~ for the commodity ~~mined~~ leased must be attached and made a part of the mineral lease. (3-18-22)( )

**05. Late Payments.** Rental or royalty not paid by the due date is considered late. ~~A twenty-five dollars (\$25) late payment charge or penalty interest from the due date, whichever is greater, will be added to the rental or royalty amount. The penalty interest is one percent (1%) for each calendar month or fraction thereof, and will result in the following monthly charges:~~ (3-18-22)( )

**a. A late charge of twenty-five dollars (\$25) or one percent (1%) of the unpaid principal obligation, whichever is greater.** ( )

**b. An interest charge of one percent (1%) on the unpaid principal obligation.** ( )

**04. Late Charge Accrual.** The Department will send monthly statements with the outstanding balance that will remain on the account and will continue to accrue late charges and interest each month, or any portion of a month, until the balance is paid in full. All payments will be applied first to accrued interest and late charges, and then to principal. ( )

**031. LEASE SIZE AND COMPOSITION OF LEASABLE TRACT.**

**01. One Mile Limitation.** A riverbed lease may not exceed one (1) contiguous river mile in length or all the riverbed within one (1) section should all the available state lands within the section exceed one (1) river mile. ( )

**02. Construction Materials Salable Minerals.** Leases for ~~construction materials~~ salable minerals may be limited to a smaller size tract at the Board's discretion. (3-18-22)( )

**032. -- 034. (RESERVED)**

**035. ASSIGNMENTS.**

**01. Prior Written Approval.** No ~~location or~~ lease assignment is valid until approved in writing by the ~~Director, and no assignment takes effect until after the first day of the month following its approval~~ Department. A lease may be assigned to any person qualified to hold a lease. (3-18-22)( )

**02. Partition Partial Assignment.** A ~~location or~~ lease may be partially assigned ~~to any person qualified to hold a state location or lease, provided that in the event an assignment partitions leased lands between two (2) or more persons, if both the assigned and the retained part created by the assignment contain not less than one-half (1/2) mile length of river bed land. The resulting leases continue in full force and effect for the balance of the term of the original lease unless otherwise terminated in accordance with the terms of the lease.~~ (3-18-22)( )

**03. Segregation of Lease.** If an assignment partitions leased lands between two (2) or more persons, it must clearly segregate the assigned and retained portions of the leasehold. Resulting segregated leases continue in full force and effect for the balance of the term of the original lease or as further extended pursuant to statute and these rules. (3-18-22)

**036. -- 039. (RESERVED)**

**040. BOND.**

**01. Minimum Lease Bond.** Concurrent with the lessee's execution of the lease ~~by the lessee~~, lessee must furnish to the ~~Director~~ Department a ~~good and sufficient bond or undertaking in favor of the state of Idaho~~ on a Department form in the amount of five thousand dollars (\$5,000) for commercial operations and one thousand dollars (\$1,000) for all other operations. The bond will be in favor of the state of Idaho, conditioned on the payment of all damages to the land and all improvements thereon which result from the lessee's operation and conditioned on complying with statute, these rules and the lease terms. This bond is in addition to ~~the~~ bonds required by ~~the Idaho Dredge and Placer Mining Protection Act (Title 47, Chapter 13, Idaho Code).~~ (3-18-22)( )

**02. Statewide Bond.** In lieu of the above bond, the lessee may furnish a good and sufficient "statewide" bond conditioned as above in the amount of fifty thousand dollars (\$50,000) in favor of the state of Idaho, to cover all lessee's leases and operations carried on under statute and these rules. (3-18-22)

**032. Motorized Exploration.** Motorized exploration on an site under exploration location is subject to a minimum bond in the amount of seven hundred fifty dollars (\$750). A larger bond not exceeding seven hundred fifty dollars (\$750) per acre may be required by the Department depending on the size and scope of the operation that covers the estimated reasonable cost of reclamation as provided in Section 47-703A, Idaho Code. (3-18-22)( )

**041. -- 044. (RESERVED)**

**045. FEES.**

The following fees apply and are nonrefundable: ~~(3-18-22)~~( )

01. ~~Nonrefundable Lease Application Fee for Lease.~~ Fifty Four hundred twenty five dollars (~~\$50425~~)  
per application. ~~(3-18-22)~~( )

02. ~~Nonrefundable Fee for Lease Application Advertising Application.~~ Forty Seventy-five dollars  
(~~\$4575~~) per application. ~~(3-18-22)~~( )

03. **Exploration Location Fee.** ~~Two hundred fifty~~ Five hundred dollars (~~\$250~~ 500) per location.  
~~(3-18-22)~~( )

04. ~~Application Fee for Approval of Assignment.~~ Fifty Two hundred dollars (~~\$50~~ 200) per lease ~~or~~  
~~location~~ involved in the assignment. ~~(3-18-22)~~( )

**046. -- 999. (RESERVED)**



# IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

## 24.07.01 – RULES OF THE IDAHO STATE BOARD OF LANDSCAPE ARCHITECTS

### DOCKET NO. 24-0701-2301 (ZBR CHAPTER REPEAL)

#### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-2604, Idaho Code, and Sections 54-3003, 54-3003, 67-2614, 67-9406, and 67-9409, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 20, 2023.

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

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

This chapter of administrative rules is being repealed due to consolidation within the administrative rules chapter for the Board of Architectural Examiners, IDAPA 24.02.01. The result will be a combined rule chapter for the Board of Landscape Architects and the Board of Architectural Examiners.

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

The fees for applications, licenses, and reinstatement as designated in Rule 400 of IDAPA 24.02.01 are authorized in Section 54-3003, Idaho Code. None of these fees are being changed as a result of this rulemaking or 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 resulting from this rulemaking:

This rulemaking is not anticipated to have any negative fiscal impact on the State General Fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The (Second) Omnibus Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 7, 2023, Idaho Administrative Bulletin, [Vol. 23-6, p. 73](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Katie Stuart, Bureau Chief, at 577-2489. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2023.

DATED this 4th day of August, 2023.

Katie Stuart  
Bureau Chief  
11341 W. Chinden Blvd., Bldg. #4  
Boise, ID 83714  
Phone: (208) 577-2489  
Email: [katie.stuart@dopl.idaho.gov](mailto:katie.stuart@dopl.idaho.gov)

**IDAPA 24.07.01 IS BEING REPEALED IN ITS ENTIRETY**

# IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

## 24.14.01 – RULES OF THE STATE BOARD OF SOCIAL WORK EXAMINERS

### DOCKET NO. 24-1401-2301 (ZBR CHAPTER REWRITE, FEE RULE)

#### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, and Sections 54-3204, 54-3209, 54-3211, 54-3212, 67-2614, 67-9406, and 67-9409, Idaho Code.

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

<b>Thursday, September 14, 2023, 9:00 a.m. MT</b>
<b>Division of Occupational and Professional Licenses Chinden Campus Building 4 11341 W. Chinden Blvd., Bldg. #4 Boise, ID 83714</b>
<b>Telephone and web conferencing information will be posted on: <a href="https://dopl.idaho.gov/calendar/">https://dopl.idaho.gov/calendar/</a> and <a href="https://townhall.idaho.gov/">https://townhall.idaho.gov/</a></b>

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

**DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Board of Social Work Examiners 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 to use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and Executive Order 2020-01.

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

The fees for applications, licenses, and reinstatement as designated in Rule 400 of these proposed rules are authorized in Section 54-3209, Idaho Code. None of these fees are being changed as a result of this rulemaking or since being previously reviewed by the Idaho legislature.

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

This rulemaking is not anticipated to have any negative fiscal impact on the State General Fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted under Docket No. 24-ZBRR-2301. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 5, 2023 Idaho Administrative Bulletin, [Vol. 23-4, pp. 42-46](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this proposed rule, contact Katie Stuart, Administration Bureau Chief, at (208) 577-2489. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2023.

DATED this 8th day of August, 2023.

Katie Stuart  
Bureau Chief  
11341 W. Chinden Blvd., Bldg. #4  
Boise, ID 83714  
Phone: (208) 577-2489  
Email: [katie.stuart@dopl.idaho.gov](mailto:katie.stuart@dopl.idaho.gov)  
Website: <https://dopl.idaho.gov/>

**THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 24-1401-2301**  
**(ZBR Chapter Rewrite)**

*\*Note – Due to extensive reorganization of this ZBR chapter, the rule text below is presented as clean text without showing amendments in legislative format. A redline copy provided by the agency has been included at the end of the docket for transparency and can be utilized to track all edits used to formulate the proposed rule.*

**24.14.01 – RULES OF THE STATE BOARD OF SOCIAL WORK EXAMINERS**

**000. LEGAL AUTHORITY.**

These rules are promulgated pursuant to Section 54-3204, Idaho Code. ( )

**001. SCOPE.**

These rules govern the practice of social work in Idaho. ( )

**002. DEFINITIONS.**

**01. Psychotherapy.** Treatment methods using a specialized, formal interaction between a Clinical Social Worker and an individual, couple, family, or group in which a therapeutic relationship is established, maintained, or sustained to understand unconscious processes, intrapersonal, interpersonal, and psychosocial dynamics, and the diagnosis and treatment of mental, emotional, and behavioral disorders, conditions, and addictions. ( )

**02. Relative.** For the purposes of these rules, a relative is a person's spouse, parent, child, or sibling, regardless of whether the relation is by blood, through marriage, or by law. ( )

**03. Supervisor.** A clinical social worker who has been licensed for at least two (2) years, has not been disciplined for acts relating to client care within the past five (5) years, and has completed fifteen (15) hours of clinical supervisor training. ( )

**04. Supportive Counseling.** A method used to assist individuals, couples, families, and groups in

learning how to solve problems and make decisions about personal, health, social, educational, vocational, financial, and other interpersonal concerns. This help in the maintenance of adaptive patterns is done in the interview through reassurance, advice giving, information providing, and pointing out client strengths and resources. Supportive counseling does not seek to reach unconscious material. ( )

**003. -- 009. (RESERVED)**

**100. LICENSURE.**

**01. Approved College, University, or Program.** An educational institution accredited by the US Department of Education, a regionally accredited institution of higher education, or as otherwise approved by the Board, and a social work program accredited by the Council on Social Work Education (CSWE) or as otherwise approved by the Board. ( )

**02. Approved Examination.** The applicable Association of Social Work Boards (ASWB) licensing examination for the license type, passed within the previous seven (7) years. ( )

**03. Approved Postgraduate Supervised Clinical Experience for Clinical Social Worker License.** Three thousand (3,000) hours of supervised clinical social work experience must be completed over the course of no fewer than two (2) years and no more than five (5) years, including 1.) one thousand seven hundred fifty (1,750) hours of direct client contact involving treatment in clinical social work as defined and one thousand two hundred fifty (1,250) hours of assessment, diagnosis, and other clinical social work, including indirect hours that may occur outside the presence of a client; and 2.) at least one hundred (100) hours of in-person or remote live electronic connection face-to-face contact with the supervisor, and with no more than fifty (50) hours of the face-to-face contact hours involving group supervision. At least fifty percent (50%) of the supervision must be provided by a licensed clinical social worker, with the remaining supervision provided by a licensed clinical psychologist, psychiatrist, clinical professional counselor, or marriage and family therapist. The supervisor must be licensed in the state in which the supervised experience was obtained. Supervision for clinical work must continue until clinical licensure is issued. The apprenticeship program must comply with all criteria identified on the Clinical Social Work Supervision Report Forms. Supervision must be interactive and consultative teaching directed toward the enhancement and improvement of the individual's social work values, knowledge, methods, and techniques. Hours spent on case management will not count toward clinical social work hours. ( )

**a.** Any licensee who has reached the maximum of five (5) years of experience and who is awaiting passing test results may not continue to practice under supervision and may only practice at the level of licensure that they currently hold. ( )

**b.** If the supervised experience was completed more than five (5) years prior to application for licensure the Board will evaluate the applicant's competency, including evaluating completion of continuing education, supervised practice, examination, and/or practice in another jurisdiction. ( )

**04. Endorsement.** In addition to the requirement in Section 54-3208, Idaho Code, the applicant must have successfully passed the approved examination for the license type or an equivalent, unless such an examination was not required at the time of the applicant's original licensure. ( )

**05. Continuing Education.** To renew or return to active status, licensees must complete during the preceding twenty-four (24) months, and retain proof of completion, of thirty (30) hours of continuing education, two (2) hours of which must be in professional ethics and the remainder germane to the practice of social work. CE hours may be obtained for preparing and providing germane continuing education or training to other professionals and for individual research projects. Courses that are part of the curriculum of an accredited university, college or other educational institution are allotted CE credit at the rate of fifteen (15) CE hours for each semester hour or ten (10) CE hours for each quarter hour of school credit awarded. ( )

**06. Inactive Status.** A licensee requesting inactive status must submit the required form and pay the inactive license fee. After five (5) years of going inactive, a licensee must demonstrate competency to resume practice, as required by the Board. The requirements may include, but are not limited to, education, supervised practice, examination, and/or practice in another jurisdiction. ( )

101. -- 199. (RESERVED)

**200. PRACTICE STANDARDS.**

**01. Baccalaureate Social Work.** The application of social work theory, knowledge, methods, and ethics to restore or enhance social or psychosocial functioning of individuals, couples, families, groups, organizations, and communities. Baccalaureate social work is a generalist practice that includes assessment, planning, intervention, evaluation, case management, information and referral, supportive counseling, supervision, and consultation with clients. Baccalaureate social work also includes advocacy, education, community organization, and the development, implementation and administration of policies, programs, and activities. Bachelor level social workers are prohibited from performing psychotherapy. ( )

**02. Master's Social Work.** The application of social work theory, knowledge, methods and ethics, and the professional use of self to restore or enhance social, psychosocial or biopsychosocial functioning of individuals, couples, families, groups, organizations, and communities. Master's social work requires the application of specialized knowledge and advanced practice skills in the areas of assessment, treatment planning, implementation and evaluation, case management, information and referral, supportive counseling, supervision and consultation with clients, advocacy, teaching, research, community organization, and the development, implementation, and administration of policies, programs, and activities. Master level social workers who do not hold clinical licensure may provide psychotherapy only under the supervision of a licensed clinical social worker, psychologist, or psychiatrist. ( )

**03. Clinical Social Work.** The practice of clinical social work is a specialty within the practice of master's social work and requires the application of specialized clinical knowledge and advanced clinical skills in the areas of assessment, diagnosis, and treatment of mental, emotional, and behavioral disorders, conditions and addictions. Clinical social work is based on knowledge and theory of psychosocial development, behavior, psychopathology, motivation, interpersonal relationships, environmental stress, social systems, and cultural diversity, with particular attention to person-in-environment. It shares with all social work practice the goal of enhancement and maintenance of psychosocial functioning, including psychotherapy, of individuals, couples, families, and small groups. ( )

**04. Code of Professional Conduct. ( )**

**a.** A social worker must operate within their education, training, and experience and meet the applicable standard of care provided by other qualified social workers in the same or similar community and under the same or similar circumstances. A standard of care violation may exist where a social worker engages in professional conduct that a reasonable social worker would not under the same or similar circumstances and in the same or similar community, or where the social worker knew or should have known the professional conduct would cause unreasonable harm to the client. ( )

**b.** When a social worker leaves an agency or practice, clients must be provided prompt notice and the opportunity to remain with the agency or practice, or to continue care with the social worker. ( )

**c.** A social worker will not divide a fee or accept or give anything of value for receiving or making a referral. ( )

**d.** A social worker will provide clients with accurate and complete information regarding the extent and nature of the services available to them. ( )

**e.** While a social worker may terminate, transfer, or refer a client when the services are no longer needed or in the client's best interests, prompt notification should be provided to the client. The social worker must attempt to make appropriate referrals as indicated by the client's need or request for services. ( )

**f.** A social worker may not exploit, sexually or otherwise, their professional relationships with clients, supervisees, supervisors, students, employees, or research participants. ( )

**g.** A social worker may not engage in romantic or sexual acts with a client, a relative of a client, or a person known to the social worker to have a close personal relationship with the client when it has the potential to be harmful to the client, during and for three (3) years following termination of a social worker's services. A social worker must not provide social work services to a person with whom they have had a romantic or sexual relationship. ( )

**h.** In providing services, a social worker may not discriminate on the basis of age, gender, gender identity, sexual orientation, race, color, religion, national origin, mental status, physical disability, social or economic status, political belief, or any other preference or personal characteristic, condition or status. ( )

**i.** A social worker must obtain the client's or legal guardian's informed written consent when a client is to be involved in a research project. A social worker must explain the research, including any implications. ( )

**j.** A social worker must obtain informed consent of clients before taping, recording, or permitting third party observation. ( )

**k.** A social worker must safeguard information given by clients in providing client services. ( )

**l.** A social worker, regardless of personal or professional relationship, must report a licensee's violation of the Board's law or rules. ( )

**m.** A social worker may not disseminate or cause the dissemination of any fraudulent or deceptive advertisement. ( )

**n.** A social worker may not engage in dual or multiple relationships with clients or with relatives of a client, or with individuals with whom clients have close personal relationships known to the social worker, in which a reasonable and prudent social worker would conclude after appropriate assessment that there is a risk of harm or exploitation to the client or of impairing a social worker's objectivity or professional judgment. A dual or multiple relationship is a relationship that occurs when a social worker interacts with a client in more than one capacity, whether it be before, during, or after the professional, social, or business relationship. Dual or multiple relationships can occur simultaneously or consecutively. After an appropriate assessment determines that the relationship does not create a risk of harm or exploitation to the client and will not impair a social worker's objectivity or professional judgment, the social worker must document in case records, prior to the interaction, when feasible, the rationale for such a relationship, and the potential benefits. ( )

**o.** A social worker may not purchase goods or services from a client or otherwise engage in a business relationship with a client except when 1) the client is providing necessary goods or services to the general public; 2) a reasonable and prudent social worker would determine that it is not practical or reasonable to obtain the goods or services from another provider; and 3) a reasonable and prudent social worker would conclude after appropriate and documented assessment that engaging in the business relationship will not be detrimental to the client or the professional relationship. ( )

**05. Competency.** ( )

**a.** A social worker must only represent himself and practice in a competent manner within the boundaries of his education, training, licensure level, supervision, and other relevant professional experience. ( )

**b.** A social worker must only practice within new areas or use new intervention techniques or approaches after engaging in appropriate study, training, consultation, or supervision. ( )

**c.** A social worker must exercise careful judgment when generally recognized standards do not exist with respect to an emerging area of practice and take responsible steps to ensure the competence of his practice. ( )

**201. -- 399. (RESERVED)**

**400. FEES.**

All fees are non-refundable.

FEE TYPE	AMOUNT (Not to Exceed)	RENEWAL (Not to Exceed)	INACTIVE (Not to Exceed)
Application	\$70		
Endorsement 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		

( )

**401. -- 999. (RESERVED)**

[Agency redlined courtesy copy]

**24.14.01 – RULES OF THE STATE BOARD OF SOCIAL WORK EXAMINERS**

**000. LEGAL AUTHORITY.**

These rules are promulgated pursuant to Section 54-3204, Idaho Code.( )

**001. SCOPE.**

These rules govern the practice of social work in Idaho.( )

~~002. -- 009. (RESERVED)~~

**0402. DEFINITIONS.**

~~01. Professionalism. Behavior exhibited on the part of an applicant which is in conformity with the Social Work Code of Professional Conduct as defined in Section 450 of these rules and within the limits of state law.~~  
 ( )

**021. Psychotherapy.** Treatment methods using a specialized, formal interaction between a Clinical Social Worker and an individual, couple, family, or group in which a therapeutic relationship is established, maintained, or sustained to understand unconscious processes, intrapersonal, interpersonal, and psychosocial dynamics, and the diagnosis and treatment of mental, emotional, and behavioral disorders, conditions, and addictions.  
 ( )

**032. Relative.** For the purposes of these rules, a relative is a person’s spouse, parent, child, or sibling, regardless of whether the relation is by blood, through marriage, or by law.( )

**03. Supervisor.** A clinical social worker who has been licensed for at least two years, has not been



disciplined for acts relating to client care within the past five (5) years, and has completed fifteen hours of clinical supervisor training. ( )

**04. Supportive Counseling.** ~~Supportive counseling by a social worker means a~~ method used ~~by social workers~~ to assist individuals, couples, families, and groups in learning how to solve problems and make decisions about personal, health, social, educational, vocational, financial, and other interpersonal concerns. This help in the maintenance of adaptive patterns is done in the interview through reassurance, advice giving, information providing, and pointing out client strengths and resources. Supportive counseling does not seek to reach unconscious material. ( )

~~011.—099.(RESERVED)~~

**100. APPROVED COLLEGES AND UNIVERSITIES LICENSURE**

**01. Approved College, University, or Program.** Any educational institution accredited by the US Department of Education, a regionally accredited institution of higher education, or as otherwise approved by the Board, and college, university, or school of social work that is accredited or is a candidate for accreditation by the Northwest Commission on Colleges and Universities or any similar accrediting body, and that offers a social work program that is accredited by the Council on Social Work Education (CSWE) or that is as otherwise approved by the Board. The social work program must be a recognizable, coherent organizational entity within the institution. ( )

~~101.—199.(RESERVED)~~

**200. LICENSING QUALIFICATIONS AND DEFINITION OF TERMS.**

All applicants for licensing under the Social Work Licensing Act must meet the minimum qualifications as set forth by this act. ( )

**01. Educational Requirements.** Educational requirements must be verified by submission of official transcripts sent directly to the Board from the educational institution or from the repository of primary source credentialing information administered by the Association of Social Work Boards (ASWB). Applicants are responsible for arranging transmission of this information. ( )

**2010. PRACTICE OF SOCIAL WORK STANDARDS.**

**01. Baccalaureate Social Work.** The application of social work theory, knowledge, methods, and ethics to restore or enhance social or psychosocial functioning of individuals, couples, families, groups, organizations, and communities. Baccalaureate social work is a generalist practice that includes assessment, planning, intervention, evaluation, case management, information and referral, supportive counseling, supervision, and consultation with clients. Baccalaureate social work also includes advocacy, education, community organization, and the development, implementation and administration of policies, programs, and activities. Bachelor level social workers are prohibited from performing psychotherapy. ~~Baccalaureate social work can include independent practice, but not private practice.~~ ( )

**02. Master's Social Work.** The application of social work theory, knowledge, methods and ethics, and the professional use of self to restore or enhance social, psychosocial or biopsychosocial functioning of individuals, couples, families, groups, organizations, and communities. Master's social work requires the application of specialized knowledge and advanced practice skills in the areas of assessment, treatment planning, implementation and evaluation, case management, information and referral, supportive counseling, supervision and consultation with clients, advocacy, teaching, research, community organization, and the development, implementation, and administration of policies, programs, and activities. Master level social workers who do not hold clinical licensure may provide psychotherapy only under the supervision of a licensed clinical social worker, psychologist, or

~~psychiatrist and in accordance with an approved supervision plan. Master's social work can include independent practice, but not private practice.( )~~

**03. Clinical Social Work.** The practice of clinical social work is a specialty within the practice of master's social work and requires the application of specialized clinical knowledge and advanced clinical skills in the areas of assessment, diagnosis, and treatment of mental, emotional, and behavioral disorders, conditions and addictions. Clinical social work is based on knowledge and theory of psychosocial development, behavior, psychopathology, motivation, interpersonal relationships, environmental stress, social systems, and cultural diversity, with particular attention to person-in-environment. It shares with all social work practice the goal of enhancement and maintenance of psychosocial functioning, including psychotherapy, of individuals, couples, families, and small groups. ~~Clinical social work includes, but is not limited to, individual, couples, family and group psychotherapy, and includes independent and private practice.( )~~

~~**04. Employment of a Social Worker.** A social worker employed directly by a physician, psychologist or other social worker, or by a public or private agency, institution, hospital, nursing home, rehabilitation center, or any similar facility, is not to be considered within the definition of an independent practitioner. Furthermore, a social worker who contracts with an agency or institution that assumes full responsibility for and supervises the services provided to clients is not considered to be a private practitioner.( )~~

~~202.—209.(Reserved)~~

## ~~210. SUPERVISION.~~

~~**01. Generally Applicable Supervision Requirements.** All supervised experience, as set forth in this section, must meet the following requirements:( )~~

~~**a.** Supervision must be consultative-teaching supervision which is directed toward enhancement and improvement of the individual's social work values, knowledge, methods, and techniques.( )~~

~~**b.** A minimum of one hundred (100) hours of the required supervision must be face to face contact with the supervisor and must occur on a regular and on-going basis. Supervision may include a face-to-face setting provided by a secure live electronic connection. The secure live electronic connection must comply with any applicable state and federal laws, rules and regulations, including the health insurance portability and accountability act (HIPAA). ( )~~

~~**i.** A supervisee may count in full all time in a supervisory session where the ratio of supervisor to supervisees does not exceed one (1) supervisor to two (2) social workers. All one hundred (100) hours may be earned in such a one (1) to two (2) setting.( )~~

~~**ii.** Group supervision may count for no more than fifty (50) hours of face to face contact. Group supervision may count only where the ratio of supervisor to supervisees does not exceed one (1) supervisor to six (6) supervisees, and the allowable countable time must be prorated by the following formula: total session minutes divided by total supervisees, multiplied by two (2) equals the maximum allowable countable time per supervisee for the session. i.e. a supervisee attending a one (1) hour group supervisory session consisting of six (6) supervisees must be allowed twenty (20) minutes of group supervision credit (60 minutes/6 supervisees x 2 = 20 minutes).( )~~

~~**02. Pursuing Licensure As Independent Practitioners.** Requirements for supervision of baccalaureate or master's social workers pursuing licensure as independent practitioners.( )~~

~~**a.** Develop a plan for supervision that must be reviewed and approved by a designated Board member prior to commencement of supervision.( )~~

~~b. Complete a minimum of three thousand (3,000) hours of supervised social work experience. The hours must be accumulated in not less than two (2) years but in not more than five (5) years unless an extension is approved by the Board for good cause shown. ( )~~

~~e. Supervision must be provided by a qualified and experienced licensed social worker with a current license in good standing and approved to pursue independent practice. ( )~~

~~i. For a baccalaureate social worker the supervisor must hold a license at the baccalaureate, masters, or clinical level. ( )~~

~~ii. For a masters social worker the supervisor must hold a license at the masters, or clinical level. ( )~~

~~iii. Prior to a change in supervisors, the supervisee must notify the Board and the change must be approved by a designated member of the Board prior to the commencement of supervision by the new supervisor. ( )~~

~~iv. The supervisee may not have more than two (2) supervisors at any given time. ( )~~

**03. Pursuing Licensure As Approved Postgraduate Supervised Clinical Experience for Clinical Social Worker License.** Requirements for supervision of master's social workers pursuing licensure as clinical social worker. ( )

~~a. Develop a plan for supervision that must be reviewed and approved by a designated Board member prior to commencement of supervision. ( )~~

~~b. Complete a minimum of three thousand (3,000) hours of supervised clinical social work experience must be completed over the course of no fewer than two (2) years and no more than five (5) years, including 1.) focused on clinical social work. The hours must be accumulated in not less than two (2) years but in not more than five (5) years unless an extension is approved by the Board for good cause shown. The hours must also meet the following: ( )~~

~~i. One thousand seven hundred fifty (1,750) hours of direct client contact involving treatment in clinical social work as defined; and ( )~~

~~ii. One thousand two hundred fifty (1,250) hours involving of assessment, diagnosis, and other clinical social work, including indirect hours that may occur outside the presence of a client; as defined ( ) and 2.) at least one hundred (100) hours of in-person or remote live electronic connection face-to-face contact with the supervisor, and with no more than fifty (50) hours of the face-to-face contact hours involving group supervision.~~

~~e. At least Fifty percent (50%) of the supervision supervised experience must be provided by a licensed clinical social worker, with registered as a supervisor pursuant to Section 211 of these rules. The remaining fifty percent (50%) of supervision may be provided by one or more of the following: ( )~~

~~i. A licensed clinical social worker who is registered as a supervisor pursuant to Section 211; ( )~~

~~ii. A licensed clinical psychologist; ( )~~

~~iii. A psychiatrist, person licensed to practice medicine and surgery who practices in the area of psychiatry; ( )~~

~~iv. A licensed clinical professional counselor, registered as a supervisor by the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists; or ( )~~

~~v. A licensed or marriage and family therapist. The supervisor must be licensed in the state in which the supervised experience was obtained. Supervision for clinical work must continue until clinical licensure is issued. The apprenticeship program must comply with all criteria identified on the Clinical Social Work Supervision Report Forms. Supervision must be interactive and consultative teaching directed toward the enhancement and improvement of the individual's social work values, knowledge, methods, and techniques. Hours spent on case management will not count toward clinical social work hours. registered as a supervisor by the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists. ( )~~

~~a. Any licensee who has reached the maximum of five (5) years of experience and who is awaiting passing test results may not continue to practice under supervision and may only practice at the level of licensure that they currently hold. ( )~~

~~b. If the supervised experience was completed more than five (5) years prior to application for licensure the Board will evaluate the applicant's competency, including evaluating completion of continuing education, supervised practice, examination, and/or practice in another jurisdiction. ( )~~

~~d. Prior to a change in supervisors, the supervisee must notify the Board and the change must be approved by a designated member of the Board prior to the commencement of supervision by the new supervisor. ( )~~

~~e. The supervisee may not have more than two (2) supervisors at any given time. ( )~~

~~04. Out of State Supervised Experience. The Board may consider supervised experience obtained outside the state of Idaho submitted for Idaho licensure purposes as proscribed under Section 210.03 and consistent with that jurisdictions laws. Such experience, whether already obtained or planned to be obtained, must be included in the plan for supervision and reviewed and approved by a designated Board member. ( )~~

~~a. Previous supervised experience must have been obtained within the five (5) year period preceding the submission of the plan for supervision and must have been obtained in compliance with the law and rules of the state in which the experience was obtained. ( )~~

~~**211. SOCIAL WORK SUPERVISOR REGISTRATION.**~~

~~Idaho licensed social workers must be registered with the Board in order to provide postgraduate supervision for those individuals in Idaho pursuing licensure as a clinical social worker. ( )~~

~~01. Requirements for Registration. ( )~~

~~a. Document at least two years' experience as a licensed clinical social worker. ( )~~

~~b. Have not been the subject of any disciplinary action for five (5) years prior to application for registration. ( )~~

~~e. Document fifteen (15) contact hours of education in clinical supervisor training within the past five (5) years, as approved by the Board, or if previously registered as a supervisor with the Board, document six (6) hours of education in advanced supervisor training as approved by the Board. ( )~~

~~02. Registration. ( )~~

~~a. Upon receipt of a completed application verifying compliance with the requirements for registration as a supervisor, the applicant must be registered as a supervisor. ( )~~

~~b. A supervisor’s registration must remain valid only so long as the individual’s clinical social worker license remains current and in good standing.(—)~~

~~03. **Renewal.** A supervisor’s registration is valid for a term of five (5) years. To renew a supervisor registration, the registered supervisor must submit a renewal application and:(—)~~

~~a. Hold an active Idaho clinical social worker license which has not been subject to discipline, the Board may, in its discretion, approve a supervisor who has been previously disciplined based on the nature of the discipline and the time elapsed; and(—)~~

~~b. Document six (6) hours of continuing education in advanced supervisor training as approved by the Board and completed within the previous five (5) years.(—)~~

~~212.— 224.(RESERVED)~~

~~225. **INACTIVE STATUS.**~~

~~016. **Request for Inactive Status.** Each person A licensee requesting an inactive status must submit the required form and pay the inactive license fee.(—)~~

~~02. **Inactive License Status.** (—)~~

~~a. All continuing education requirements will be waived for any year or portion thereof that a licensee maintains an inactive license and is not actively practicing or supervising in Idaho(—)~~

~~b. To return to active status, a licensee must complete one (1) year of continuing education requirements and submit a fee equivalent to the difference between the inactive and active renewal fee.(—)~~

~~03.— **Return to Active Status After Five (5) Years or More of Inactive Status.** Licensee must provide an account to the Board for that period of time during which the license was inactive and fulfilling requirements that After five (5) years of going inactive, a licensee must demonstrate competency to resume practice, as required by the Board. These requirements may include, but are not limited to, education, supervised practice, and examination, as determined by the Board. The Board may consider and/or practice in another jurisdiction, in determining competency.( )~~

~~226.— 299.(RESERVED)~~

~~3400. **FEES.**~~

All fees are non-refundable.

FEE TYPE	AMOUNT (Not to Exceed)	RENEWAL (Not to Exceed)	INACTIVE (Not to Exceed)
Application	\$70		
<del>Examination</del>	<del>Set by testing service</del>		
Endorsement <del>and</del> 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		

( )

~~301.— 349.(RESERVED)~~

~~350. EXAMINATIONS AND ENDORSEMENT.~~

~~Applications for examination and endorsement may be reviewed and approved by a designated Board member upon determination that the applicant meets the qualifications. Approval to sit for examination does not obligate the Board to issue a license if it is later determined that the applicant does not meet the requirements for licensure.(—)~~

~~021. **Approved Examination.** The applicable Board approves the uniform, nationally standardized examination of the Association of Social Work Boards (ASWB) as the Idaho licensure examination for the license type, passed within the previous seven (7) years.( )~~

- ~~a. Bachelor level candidates are required to successfully pass the bachelor’s examination. (—)~~
- ~~b. Masters level candidates are required to successfully pass the master’s examination. (—)~~
- ~~c. Clinical level candidates are required to successfully pass the clinical examination. (—)~~

~~02. **Graduation Date to Qualify for Exam.** Candidates for examination who can satisfy the Board that they will be graduating at the end of the spring, summer, or fall terms of any given year may qualify for examination immediately preceding the date of graduation.(—)~~

~~034. **Endorsement.** In addition to the requirement in Section 54-3208, Idaho Code, the applicant must have successfully passed the approved examination for the license type or an equivalent, unless such an examination was not required at the time of the applicant’s original licensure. The Board may grant a license to any person who submits an application and who:( )~~

- ~~a. Holds a current, active social work license, at the level for which a license is being sought, issued by the authorized regulatory entity in another state or country, the certification of which must be received directly by the Board from the issuing agency; and(—)~~
- ~~b. Has not been disciplined within the last five (5) years, had a license revoked, suspended, restricted, or otherwise sanctioned by any regulatory entity and has never voluntarily surrendered a license; and(—)~~
- ~~c. Has not been convicted, found guilty, or received a withheld judgment or suspended sentence for any crime that is inconsistent with the profession of social work. (—)~~
- ~~d. Has successfully passed an examination, as referenced in Subsection 350.02, or an examination provided by the Professional Examination Service (PES) at the clinical social worker and social worker level or the Education Testing Service (ETS) examination; and(—)~~
- ~~e. Has certified under oath to abide by the laws and rules governing the practice of social work in~~

Idaho and the code of professional conduct.(—)

~~f. The Board may waive the examination requirement in Subsection 350.05.d. for an applicant who was not required to pass such an examination at the time the applicant initially obtained a social work license, provided that the applicant meets all other requirements in this subsection and has actively practiced social work for five (5) of the last seven (7) years preceding application.(—)~~

~~351. CONTINUING EDUCATION.~~

~~045. Continuing Education Requirements. To renew or return to active status, licensees must complete during the preceding twenty-four (24) months, and retain proof of completion, of thirty (30) hours of continuing education, two (2) hours of which must be in professional ethics and the remainder germane to the practice of social work. CE hours may be obtained for preparing and providing germane continuing education or training to other professionals and for individual research projects. (—)~~

~~a. Continuing education is required for renewal at all levels of social work licensure in Idaho. The Board may waive this requirement upon a showing of good cause.(—)~~

~~b. Each licensee must complete a minimum of twenty (20) continuing education (CE) hours, including at least one (1) hour in professional ethics.(—)~~

~~c. Compliance with the continuing education (CE) requirements for licensees must be reported annually. A continuing education course taken in any renewal year, but not claimed for CE credit in that year, may be utilized for credit in the following renewal year.(—)~~

~~d. Licensees will maintain documentation verifying CE attendance and curriculum for a period of four (4) years. This documentation will be subject to audit by the board.(—)~~

~~e. Licensees are not required to comply with this requirement during the first year in which they become licensed under the social work act.(—)~~

~~f. One (1) continuing education hour equals one (1) clock hour. (—)~~

~~g. Courses that are part of the curriculum of an accredited university, college or other educational institution are allotted CE credit at the rate of fifteen (15) CE hours for each semester hour or ten (10) CE hours for each quarter hour of school credit awarded.( )~~

~~h. Applications for reinstatement of a canceled license must include documented proof of meeting the continuing education requirements for the previous twelve (12) months. The requirement for professional ethics training continues during any period of cancellation.(—)~~

~~02. Categories of Continuing Education. (—)~~

~~a. Category I. Category I includes formally organized learning events, ideally involving face to face interaction with a teacher for the purpose of accomplishing specific learning objectives. Courses, workshops, conferences, practice oriented seminars, staff development and training activities coordinated and/or taught by approved and recognized educators also are included in this category. Because of our geographic location and sparse population, closed circuit T.V., video and audio tapes, internet based courses, and correspondence courses may be substituted for face-to-face contact if the course is interactive or requires an examination.(—)~~

~~b. Category II. No more than ten (10) CE hours may be obtained from this category. Category II consists of a variety of self directed professional study activities and growth experiences. Examples include making~~

~~an initial presentation on professional issues or programs, teaching a course for the first time, presenting a lecture or conducting a workshop for the first time, editing or writing professional books or articles, and conducting professional research.(—)~~

~~e. The subject matter of all approved continuing education must be germane to the practice of social work as defined in Section 54-3202, Idaho Code, and may include the specialties of Marriage and Family Therapy, Psychiatry, Psychiatric Nursing, or Psychology.(—)~~

~~**03. Continuing Education Sources. (—)**~~

~~a. Continuing education course providers must include: (—)~~

~~i. Professional Associations. Continuing education hours may be obtained by participating in activities sponsored by or approved by professional associations including but not limited to the Idaho Chapter of the National Association of Social Workers, Idaho Society for Clinical Social Workers. The professional association must certify the number of clock hours of educational content in each sponsored or approved activity.(—)~~

~~ii. Educational Institutions. Continuing education hours may be obtained by completing coursework not below your level of licensing or by participating in continuing education programs sponsored by or approved by educational institutions accredited by a regional body recognized by the Council on Post Secondary Accreditation. The educational institution must certify the number of clock hours of educational content in each sponsored or approved program.(—)~~

~~iii. Government Agencies, Schools and Hospitals. Continuing education hours may be obtained by participating in in-service training, courses or workshops sponsored by federal, state, or local government agencies, public school systems and licensed hospitals. The provider must certify the number of clock hours of educational content in each approved activity.(—)~~

~~iv. Private social service agencies and other entities. Continuing education hours may be obtained by participating in continuing education programs sponsored by agencies or entities who regularly provide social work services. The provider must certify the number of clock hours of educational content in each approved activity. (—)~~

~~b. All continuing education hours must be relevant to the profession of social work at the individual's particular level of social work licensure. The presenter's level of education must be at the licensee's level or above. Continuing education for clinical licensees must be clinical in nature except that five (5) hours each year may be non-clinical but must be germane to the practice of social work. Final approval of acceptable programs rests with the Board. (—)~~

~~**04. Documentation. (—)**~~

~~a. Each licensee must maintain documentation verifying CE attendance and curriculum for a period of four (4) years from the date of completion. This documentation will be subject to audit by the Board.(—)~~

~~b. Licensees must attest, on their annual license renewal application, that they have satisfied the continuing education requirements. False attestation of satisfaction of the continuing education requirements on a renewal application will subject the licensee to disciplinary action, including revocation.(—)~~

~~e. Continuing education documents must be in the form of a certificate of attendance, a statement signed by the provider verifying participation in the activity, an official transcript, or other documentation such as a certificate or letter from the sponsoring entity that includes the title of the activity, the subject material covered, the dates and number of hours credited, and the presenter's full name and professional credentials, or other~~



documentation as the Board may require. ( )

~~352. 399. (RESERVED)~~

~~400. UNPROFESSIONAL CONDUCT.~~

~~“Unprofessional conduct” is further defined as any violation of the Social Work Code of Professional Conduct.~~

( )

~~401. 449. (RESERVED)~~

~~450. STATEMENT OF PUBLIC POLICY AND CODE OF PROFESSIONAL CONDUCT.~~

~~The profession of social work is dedicated to serving people; the professional relationship between social workers and clients thus is governed by the highest moral and ethical values. The client is in a vulnerable role that extends beyond the time frame of actual services. In both social and professional interactions, this vulnerability is taken into consideration whether the person is currently or has been a client. Following is the Code of Professional Conduct:~~

( )

~~014. Code of Professional Conduct. The Social Worker's Ethical Responsibility to Clients.~~ ( )

~~a. For the purpose of this Code of Professional Conduct, a client is anyone for whom the social worker provides social work services directly or indirectly through consultations, staffings, or supervision with other professionals. A social worker must operate within their education, training, and experience and meet the applicable standard of care provided by other qualified social workers in the same or similar community and under the same or similar circumstances. A standard of care violation may exist where a social worker engages in professional conduct that a reasonable social worker would not under the same or similar circumstances and in the same or similar community, or where the social worker knew or should have known the professional conduct would cause unreasonable harm to the client.~~ ( )

~~b. The social worker will not commit fraud nor misrepresent services performed.~~ ( )

~~eb. The When a social worker will not solicit the clients of leaves an agency or practice, clients must be for which they provide prompt notice and the opportunity to remain with the agency or services for his private practice, or to continue care with the social worker.~~ ( )

~~dc. The A social worker will not divide a fee or accept or give anything of value for receiving or making a referral.~~ ( )

~~ed. The A social worker will provide clients with accurate and complete information regarding the extent and nature of the services available to them.~~ ( )

~~fe. The While a social worker will may terminate, transfer, or refer a client when the services service to clients, and professional relationships with them, when such service and relationships are no longer required needed or in the client's best which a conflict of interests, arises prompt notification should be provided to the client. The social worker must attempt to make appropriate referrals as indicated by the client's need or request for services.~~ ( )

~~g. A social worker may not violate a position of trust by knowingly committing any act detrimental to a client.~~ ( )

~~hf. A social worker may not exploit, sexually or otherwise, their professional relationships with clients (or former clients), supervisees, supervisors, students, employees, or research participants, sexually or otherwise. Social workers will not condone or engage in sexual harassment. Sexual harassment is defined as deliberate or~~

~~repeated comments, gestures, or physical contacts of a sexual nature that are unwelcomed by the recipient.~~ ( )

~~ig.~~ A social worker may not engage in romantic or sexual acts with a client, ~~or with a person who has been a client within the past three (3) years, with~~ a relative of a client, or ~~with~~ a person known to the social worker with whom the client maintains to have a close personal relationship with the client when it has the potential to be harmful to the client, during and for three (3) years following termination of a social worker's services. A social worker must not provide social work services to a person with whom ~~he/she has~~ they have had a romantic or sexual relationship. ( )

~~02. The Social Worker's Conduct and Compartment as a Social Worker.~~ (—)

~~ah.~~ In providing services, a social worker may not discriminate on the basis of age, gender, gender identity, sexual orientation, race, color, religion, national origin, mental status, physical disability, social or economic status, political belief, or any other preference or personal characteristic, condition or status. ( )

~~b.~~ ~~Social workers may not undertake any activity in which their personal problems are likely to lead to inadequate performance or harm to a client, colleague, student, or research participant. If engaged in such activity when they become aware of their personal problems, they must seek competent professional assistance to determine whether they should suspend, terminate, or limit the scope of their professional activities.~~(—)

~~e.~~ A social worker may not practice while impaired by medication, alcohol, drugs, or other chemicals. ~~A social worker may not practice under a mental or physical condition that impairs the ability to practice safely.~~ ( )

~~d.~~ A social worker may not repeatedly fail to keep scheduled appointments. (—)

~~e.~~ The social worker who anticipates the termination or interruption of service to clients must notify clients promptly and seek the transfer, referral, or continuation of services in relation to the clients' needs and preferences. (—)

~~f.~~ The social worker must attempt to make appropriate referrals as indicated by the client's need for services. (—)

~~gi.~~ A social worker must obtain the client's or legal guardian's informed written consent when a client is to be involved in any research project. A social worker must explain the research, including any implications. ( )

~~hj.~~ ~~The~~ A social worker must obtain informed consent of clients before taping, recording, or permitting third party observation ~~of their activities.~~ ( )

~~ik.~~ A social worker must safeguard information given by clients in providing client services. ~~Except when required by law or judicial order, a social worker must obtain the client's informed written consent before releasing confidential information from the setting or facility except for compelling reasons defined as but not limited to:~~ ( )

~~i.~~ Consultation with another professional on behalf of the client thought to be dangerous to self or others; (—)

~~ii.~~ Duty to warn pursuant to Chapter 19, Title 6, Idaho Code; (—)

~~iii.~~ Child abuse and sexual molestation pursuant to Chapter 16, Title 16, Idaho Code; and (—)

~~iv. Any other situation in accordance with statutory requirements. ( )~~

~~j. A social worker, **regardless of personal or professional relationship**, must report any licensee's violation of the **Board's** law or rules, **including Code of Professional Conduct**, by a person certified under Chapter 32, Title 54, Idaho Code. ( )~~

~~**035. Competency Practice for Social Workers.** All social workers must practice in a competent manner consistent with their level of education, training and experience. ( )~~

~~a. A social worker must only represent himself and practice **in a competent manner** within the boundaries of his education, training, licensure level, supervision, and other relevant professional experience. ( )~~

~~b. A social worker must only practice within new areas or use new intervention techniques or approaches after engaging in appropriate study, training, consultation, or supervision. ( )~~

~~c. A social worker must exercise careful judgment, when generally recognized standards do not exist with respect to an emerging area of practice, and take responsible steps to ensure the competence of his practice. ( )~~

~~**04m. The Advertising Rules for Social Workers.** No social worker may **not** disseminate or cause the dissemination of any **fraudulent or deceptive** advertisement, or advertising that is any way fraudulent, false, deceptive or misleading. Any advertisement or advertising is deemed by the board to be fraudulent, false, deceptive, or misleading if it: ( )~~

~~a. Contains a misrepresentation of fact; or ( )~~

~~b. Is misleading or deceptive because in its content or in the context in which it is presented it makes only a partial disclosure of relevant facts. More specifically, it is misleading and deceptive for a social worker to advertise free services or services for a specific charge when in fact the social worker is transmitting a higher charge for the advertised services to a third party payor for payment or charges the patient or a third party. It is misleading and deceptive for a social worker or a group of social workers to advertise a social work referral service or bureau unless the advertisement specifically names each of the individual social workers who are participating in the referral service or bureau. ( )~~

~~c. Creates false or unjustified expectations of beneficial treatment or successful outcomes; or ( )~~

~~d. Fails to identify conspicuously the social worker or social workers referred to in the advertising as a social worker or social workers; or ( )~~

~~e. Contains any representation or claims, as to which the social worker, referred to in the advertising, fails to perform; or ( )~~

~~f. Contains any representation which identifies the social worker practice being advertised by a name which does not include the terms "social worker," "social work," or some easily recognizable derivation thereof; or ( )~~

~~g. Contains any representation that the practitioner has received any license or recognition by the state of Idaho or its authorized agents, which is superior to the license and recognition granted to any social worker who successfully meets the licensing requirements of Chapter 32, Title 54, Idaho Code; or ( )~~

~~h. Appears in any classified directory, listing, or compendium under a heading, which when considered together with the advertisement, has the capacity or tendency to be deceptive or misleading with respect to~~

the profession or professional status of the social worker; or ( )

~~i. Contains any other representation, statement, or claim which is misleading or deceptive. ( )~~

~~05n. **Dual Relationships.** A social worker may not engage in dual or multiple relationships with clients, or with relatives of a client, or with individuals with whom clients ~~maintain~~ have close personal relationships known to the social worker, in which a reasonable and prudent social worker would conclude after appropriate assessment that there is a risk of harm or exploitation to the client or of impairing a social worker's objectivity or professional judgment. A dual or multiple relationship is a relationship that occurs when a social worker interacts with a client in more than one capacity, whether it be before, during, or after the professional, social, or business relationship. Dual or multiple relationships can occur simultaneously or consecutively. After an appropriate assessment determines that the relationship does not create a risk of harm or exploitation to the client and will not impair a social worker's objectivity or professional judgment, the social worker must document in case records, prior to the interaction, when feasible, the rationale for such a relationship, and the potential benefits to the client, and anticipated consequences for the client. ( )~~

~~06o. **Business Relationships.** A social worker may not purchase goods or services from a client or otherwise engage in a business relationship with a client except when: ( )~~

~~a. 1.) The client is providing necessary goods or services to the general public; ( )~~

~~b. 2.) A reasonable and prudent social worker would determine that it is not practical or reasonable to obtain the goods or services from another provider; and ( )~~

~~e. 3.) A reasonable and prudent social worker would ~~determine~~ conclude after appropriate and documented assessment that engaging in the business relationship will not be detrimental to the client or the professional relationship. ( )~~

~~07. **Bartering.** Bartering is the acceptance of goods, services, or other nonmonetary remuneration from a client in return for a social worker's services. Social workers may not barter except when such arrangement is not exploitative and: ( )~~

~~a. Is initiated by the client and with the client's written informed consent; and ( )~~

~~b. Has an easily determined fair market value of the goods or services received. ( )~~

~~451.—474.(RESERVED)~~

~~475. **DISCIPLINE.**~~

~~01. **Civil Fine.** The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensed social worker for each violation of Section 54-3211, Idaho Code. ( )~~

~~02. **Costs and Fees.** The Board may order a licensed social worker to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-3211, Idaho Code. ( )~~

~~476.—999.(RESERVED)~~

# IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

## 24.31.01 – RULES OF THE IDAHO STATE BOARD OF DENTISTRY

### DOCKET NO. 24-3101-2301 (ZBR CHAPTER REWRITE, FEE RULE)

#### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, and Sections 54-902, 54-902A, 54-903, 54-906, 54-906A, 54-912, 54-915, 54-916, 54-918, 54-920, 54-924, 54-936, 67-2614, 67-9406, and 67-9409, Idaho Code.

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

<b>Thursday, September 14, 2023, 9:00 a.m. MT</b>
<b>Division of Occupational and Professional Licenses Chinden Campus Building 4 11341 W. Chinden Blvd., Bldg. #4 Boise, ID 83714</b>
<b>Telephone and web conferencing information will be posted on: <a href="https://dopl.idaho.gov/calendar/">https://dopl.idaho.gov/calendar/</a> and <a href="https://townhall.idaho.gov/">https://townhall.idaho.gov/</a></b>

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

**DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho Board of Dentistry 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 to use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and Executive Order 2020-01.

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

The fees for applications, licenses, and reinstatement as designated in Rule 400 of these proposed rules are authorized in Section 54-916, Idaho Code. None of these fees are being changed as a result of this rulemaking or since being previously reviewed by the Idaho legislature.

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

This rulemaking is not anticipated to have any negative fiscal impact on the State General Fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted under Docket No. 24-ZBRR-2301. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 5, 2023 Idaho Administrative Bulletin, [Vol. 23-4, pp. 42-46](#).

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

- Office Anesthesia Evaluation Manual, published by the American Association of Oral and Maxillofacial Surgeons (AAOMS);
- Guidelines for Infection Control in Dental Health-Care Settings, published by the Centers for Disease Control and Prevention (CDC);
- Guidelines for Use of Sedation and General Anesthesia by Dentists, published by the American Dental Association (ADA);
- Principles of Ethics, Code of Professional Conduct, and Advisory Opinions, published by the American Dental Association (ADA);
- Standards for Clinical Dental Hygiene Practice, published by the American Dental Hygienists Association (ADHA).

The materials cited are incorporated by reference because they would be unduly cumbersome, expensive, or otherwise inexpedient to republish whole or in part. The materials cited are codes, standards, or rules adopted by nationally recognized organizations or associations.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this proposed rule, contact Katie Stuart, Bureau Chief, at (208) 577-2489. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2023.

DATED this 4th day of August, 2023.

Katie Stuart  
Bureau Chief  
11341 W. Chinden Blvd., Bldg. #4  
Boise, ID 83714  
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**THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 24-3101-2301**  
**(ZBR Chapter Rewrite)**

*\*Note – Due to extensive reorganization of this ZBR chapter, the rule text below is presented as clean text without showing amendments in legislative format. A redline copy provided by the agency has been included at the end of the docket for transparency and can be utilized to track all edits used to formulate the proposed rule.*

**24.31.01 – RULES OF THE IDAHO STATE BOARD OF DENTISTRY**

**000. LEGAL AUTHORITY.**

This Chapter is adopted under the legal authority of Chapter 9, Title 54, Idaho Code. ( )

**001. SCOPE.**

The rules constitute the minimum requirements for licensure and regulation of dentists, dental hygienists, and dental

therapists. ( )

**002. INCORPORATION BY REFERENCE.**

Pursuant to Section 67-5229, Idaho Code, this chapter incorporates by reference the most recent and updated documents available on the Board's website: ( )

**01. Professional Standards. ( )**

**a.** AAOMS, Office Anesthesia Evaluation Manual. ( )

**b.** CDC, Guidelines for Infection Control in Dental Health-Care Settings. ( )

**c.** ADA, Guidelines for Use of Sedation and General Anesthesia by Dentists. ( )

**d.** ADA, Principles of Ethics, Code of Professional Conduct and Advisory Opinions, January 2009. ( )

**e.** ADHA Hygienists' Association, Standards for Clinical Dental Hygiene Practice, 2016. ( )

**003. ABBREVIATIONS.**

**01. ADA.** American Dental Association. ( )

**02. ADHA.** American Dental Hygienists Association. ( )

**03. AAOMS.** American Association of Oral and Maxillofacial Surgeons. ( )

**04. BLS.** Basic Life Support. ( )

**05. CDC.** Centers for Disease Control and Prevention. ( )

**06. CODA.** Commission on Dental Accreditation. ( )

**07. INBDE.** Integrated National Board Dental Examination. ( )

**08. NBDHE.** National Board Dental Hygiene Examination. ( )

**004. -- 099. (RESERVED)**

**100. LICENSURE**

**01. Requirements For Licensure. ( )**

**a.** Applicants for licensure must furnish proof of graduation from a program in dentistry, dental hygiene, or dental therapy accredited by CODA at the time of applicant's graduation. ( )

**b.** Applicants for initial licensure will provide proof of current BLS certification. Practicing licensees must maintain current BLS certification. ( )

**02. Examinations For Licensure. ( )**

**a.** Written Examination. Applicants for dentistry and dental hygiene are required to pass the INBDE or NBDHE. Dental therapists must successfully complete a board-approved written examination. ( )

**b.** Clinical Examination. Applicants for general dentistry, dental hygiene or dental therapy are required to pass a Board-approved clinical examination upon such subjects as specified by the Board. Applicants for dental hygiene and dental therapy must pass a board-approved clinical local anesthesia examination. Clinical

examination results will be valid for licensure by examination for a period of (5) five years from the date of successful completion of the examination. ( )

**03. Dental Hygienists – License Endorsements.** The Board may grant license endorsements to qualified dental hygienists as follows: ( )

**a.** Restorative Endorsement. Notwithstanding any other provision of these rules, a qualified dental hygienist holding a restorative endorsement may perform specified restorative functions under the direct supervision of a dentist. Permissible restorative functions under this endorsement are limited to the placement of a direct restoration into a tooth prepared by a dentist and the carving, contouring and adjustment of the contacts and occlusion of the restoration. Upon application, the Board may grant a restorative endorsement to a person holding an unrestricted active status dental hygienist's license issued by the Board who provides satisfactory proof that the following requirements are met: ( )

i. The person has successfully completed a clinical restorative examination approved by the Board; and ( )

ii. The person has not been disciplined by the Board or another licensing authority. ( )

**b.** Renewal. A person meeting all other requirements for renewal of a license to practice dental hygiene is also entitled to renewal of a license endorsement for the effective period of the license. An endorsement immediately expires and is cancelled at such time as a person no longer holds an unrestricted active status dental hygienist's license issued by the Board. ( )

**04. Licensure Of Dental Specialists.** ( )

**a.** Requirements for Specialty Licensure. Each applicant for specialty licensure must have graduated from a CODA accredited dental school and successfully completed a CODA accredited postdoctoral advanced dental education program of at least two full-time academic years. ( )

**b.** Examination. Examination requirements for applicants who have met the requirements for licensure as a specialist: ( )

i. Passed a general licensure examination acceptable to the Board or, ( )

ii. If passed a general licensure examination not acceptable to the Board, passed a specialty examination or, ( )

iii. Be certified by the American Board of that particular specialty as of the date of application for specialty licensure. ( )

**05. Moderate Sedation, General Anesthesia And Deep Sedation.** Dentists licensed in the state of Idaho may administer moderate sedation, general anesthesia, or deep sedation following the ADA guidelines incorporated by reference pursuant to these rules once they have obtained a permit from the Board. A dentist may not administer moderate sedation to children under sixteen (16) years of age and one hundred (100) pounds unless they have qualified for and been issued a moderate parenteral sedation permit. A moderate enteral sedation permit authorizes dentists to administer sedation by either enteral or combination inhalation-enteral routes of administration. A moderate parenteral, general anesthesia, or deep sedation permit authorizes a dentist to administer sedation by any route of administration. The qualified dentist is responsible for the sedative management, adequacy of the facility and staff, diagnosis and treatment of emergencies related to the administration of moderate sedation, general anesthesia, or deep sedation and providing the equipment, drugs and protocol for patient rescue. ( )

**a.** Training Requirements. For Moderate Sedation Permits, completion of training in the administration of moderate sedation to a level consistent with requirements established by the Board within the five (5) year period immediately prior to the date of application. For General Anesthesia and Deep Sedation Permits, completion of an advanced education program accredited by CODA that affords comprehensive training necessary to administer and manage deep sedation or general anesthesia within the five (5) year period immediately preceding the



date of application. The five (5) year requirement is not applicable to applicants who hold an equivalent permit in another state which has been in effect for the twelve (12) month period immediately prior to the application date. Qualifying training courses must be sponsored by or affiliated with a dental school accredited by CODA, or be approved by the Board. ( )

**b. Permit Renewal.** Before the expiration date of a permit, the board will provide notice of renewal to the licensee. Failure to timely submit a renewal application and permit fee shall result in expiration of the permit and termination of the licensee's right to administer sedation. Failure to submit a complete renewal application and permit fee within thirty (30) days of expiration of the permit shall result in cancellation of the permit. Renewal of the permit will be required every five (5) years. Proof of a minimum of twenty-five (25) continuing education credit hours in sedation which may include training in medical/office emergencies will be required to renew a permit. ( )

**c. Reinstatement.** A dentist may apply for reinstatement of a canceled or surrendered permit issued by the Board within five (5) years of the date of the permit's cancellation or surrender. Applicants for reinstatement of a sedation permit must satisfy the facility and personnel requirements and verify they have obtained an average of five (5) continuing education credit hours in sedation for each year subsequent to the date upon which the permit was canceled or surrendered. A fee for reinstatement will be assessed. ( )

**06. Continuing Education Requirements.** A licensee renewing an active status license shall report 30 oral health/health-related continuing education hour credits to the Board of verifiable CE or volunteer practice. ( )

**101. -- 199. (RESERVED)**

**200. PRACTICE STANDARDS.**

**01. Dental Hygienists – Practice.** Dental hygienists are authorized under the supervision of a licensed dentist, at the supervision level set by the dentist, to perform dental hygiene services for which they are trained unless prohibited by these rules. ( )

**02. Dental Hygienists – Prohibited Practice.** ( )

**a. Diagnosis and Treatment.** Definitive diagnosis and dental treatment planning. ( )

**b. Operative Preparation.** The operative preparation of teeth for the placement of restorative materials. ( )

**c. Intraoral Placement or Carving.** The intraoral placement or carving of restorative materials unless authorized by issuance of an extended access restorative endorsement. ( )

**d. Anesthesia.** Administration of any general anesthesia or moderate sedation. ( )

**e. Final Placement.** Final placement of any fixed or removable appliances. ( )

**f. Final Removal.** Final removal of any fixed appliance. ( )

**g. Cutting Procedures.** Cutting procedures utilized in the preparation of the coronal or root portion of the tooth, or cutting procedures involving the supportive structures of the tooth. ( )

**h. Root Canal.** Placement of the final root canal filling. ( )

**i. Occlusal Equilibration Procedures.** Occlusal equilibration procedures for any prosthetic restoration, whether fixed or removable. ( )

**j. Other Final Placement.** Final placement of prefabricated or cast restorations or crowns. ( )

**03. Dental Assistants – Practice.** Dental assistants are authorized to perform dental services for which

they are trained unless prohibited by these rules. Dental assistants must be directly supervised by a dentist when performing intraoral procedures except when providing palliative care as directed by the supervising dentist. ( )

- a.** Prohibited Duties. A dental assistant is prohibited from performing the following duties: ( )
  - i.** The intraoral placement or carving of permanent restorative materials. ( )
  - ii.** Any irreversible procedure. ( )
  - iii.** The administration of any sedation or local injectable anesthetic. ( )
  - iv.** Removal of calculus. ( )
  - v.** Use of an air polisher. ( )
  - vi.** Any intra-oral procedure using a high-speed handpiece, except for the removal of orthodontic cement or resin. ( )
  - vii.** Any dental hygiene prohibited duty. ( )

**04. Dental Therapists – Practice.** Dental therapists are authorized to perform activities specified by the supervising dentist who practices in the same practice setting in conformity with a written collaborative practice agreement at the supervision levels set forth in the agreement. ( )

**05. Dental Therapists – Prohibited Practice.** ( )

**a.** Sedation. Administration of minimal, moderate or deep sedation or general anesthesia except as otherwise allowed by these rules; ( )

**b.** Cutting Procedures. Cutting procedures involving the supportive structures of the tooth including both the soft and hard tissues. ( )

**c.** Periodontal Therapy. Periodontal scaling and root planing, including the removal of subgingival calculus. ( )

**d.** All Extractions with Exception. All extractions except: ( )

**i.** Under direct supervision. ( )

**ii.** Non-surgical extractions. ( )

**e.** Under general supervision or as specified in Section 035. ( )

**i.** Removal of periodontally diseased teeth with class III mobility. ( )

**ii.** Removal of coronal remnants of deciduous teeth. ( )

**f.** Root Canal Therapy. ( )

**g.** All Fixed and Removable Prosthodontics (except stainless steel crowns). ( )

**h.** Orthodontics. ( )

**06. Limitation of Practice.** No dentist may announce or otherwise hold himself out to the public as a specialist unless he has been issued a specialty license. Any individual granted a specialty license must limit his practice to the specialty(s) in which he is licensed. ( )

**07. Specialty Advertising.** The specialty advertising rules are intended to allow the public to be informed about dental specialties and to require appropriate disclosures to avoid misperceptions on the part of the public. An advertisement may not state that a licensee is a specialist unless the licensee has been granted a license in that specialty area of dental practice by the Board. A licensee who has not been granted a specialty license by the Board may advertise as being qualified in a recognized specialty area of dental practice so long as each such advertisement, regardless of form, contains a prominent, clearly worded disclaimer that the licensee is “licensed as a general dentist”. A licensee may not advertise as being a specialist in or as specializing in any area of dental practice which is not a Board recognized and licensed specialty area unless the advertisement, regardless of form, contains a prominent, clearly worded disclaimer that the advertised area of dental practice is not recognized as a specialty area of dental practice by the Idaho Board of Dentistry. Any disclaimer in a written advertisement shall be in the same font style and size as that in the listing of the specialty area. ( )

**08. Patient Records.** A record must be maintained for each person receiving dental services, regardless of whether any fee is charged. Records must be in the form of an acronym such as “PARQ” (Procedure, Alternatives, Risks and Questions) or “SOAP” (Subjective Objective Assessment Plan) or their equivalent. Patient records must be maintained for no less than seven (7) years from the date of last entry unless: the patient requests the records be transferred to another dentist who will maintain the records, the dentist gives the records to the patient, or the dentist transfers the dentist's practice to another dentist who will maintain the records. ( )

**09. Infection Control.** Licensees and dental assistants must comply with current CDC infection control guidelines related to personal protective equipment, instrument sterilization, sterilizing device testing, disinfection of non-critical and clinical contact surfaces, and contaminated waste disposal. Heat sterilizing devices must be tested each calendar week in which patients are treated. Testing results must be retained by the licensee for the current calendar year and the two preceding calendar years. ( )

**10. Emergency Medications Or Drugs.** The following emergency medications or drugs are required in all sites where anesthetic agents of any kind are administered: anti-anaphylactic agent, antihistaminic, aspirin, bronchodilator, coronary artery vasodilator, and glucose. ( )

**11. Local Anesthesia.** Dental offices in which local anesthesia is administered to patients shall, at a minimum, have and maintain suction equipment capable of aspirating gastric contents from the mouth and pharynx, a portable oxygen delivery system including full face masks and a bag-valve mask combination capable of delivering positive pressure, oxygen-enriched ventilation to the patient, a blood pressure cuff of appropriate size and a stethoscope. ( )

**12. Nitrous Oxide/Oxygen.** Persons licensed to practice and dental assistants trained in accordance with these rules may administer nitrous oxide/oxygen to patients. Dental offices where nitrous oxide/oxygen is administered to patients must have the following: a fail-safe nitrous oxide delivery system that is maintained in working order; a scavenging system; and a positive-pressure oxygen delivery system suitable for the patient being treated. ( )

**13. Minimal Sedation.** Persons licensed to practice dentistry may administer minimal sedation to patients of sixteen (16) years of age or older following the ADA guidelines as incorporated by reference pursuant to these rules. When the intent is minimal sedation, the appropriate dosing of a single enteral drug is no more than the maximum FDA-recommended dose for unmonitored home use. In cases where the patient weighs less than one hundred (100) pounds, or is under the age of sixteen (16) years, minimal sedation may be administered without a permit by use of nitrous oxide, or with a single enteral dose of a sedative agent administered in the dental office. ( )

**14. Use Of Other Anesthesia Personnel.** A dentist who does not hold a sedation permit may perform dental procedures in a dental office on a patient who receives sedation induced by an anesthesiologist, a certified registered nurse anesthetist, or another dentist with a sedation permit. The qualified sedation provider who induces sedation will monitor the patient's condition until the patient is discharged. The sedation record must be maintained in the patient's dental record and is the responsibility of the dentist who is performing the dental procedures. A dentist who intends to use the services of a qualified sedation provider must notify the Board in writing of his intent. Such notification need only be submitted once every licensing period. ( )

**15. Incident Reporting.** Dentists must report to the Board, in writing, within seven (7) days after the death or transport to a hospital or emergency center for medical treatment for a period exceeding twenty-four (24) hours of any patient. ( )

**201. -- 299. (RESERVED)**

**300. DISCIPLINE.**

**01. Suspension, Revocation Or Restriction Of Sedation Permit.** The Board may, at any time and for just cause, institute proceedings to revoke, suspend, or otherwise restrict a sedation permit. If the Board determines that emergency action is necessary to protect the public, summary suspension may be ordered pending further proceedings. Proceedings to suspend, revoke or restrict a permit shall be subject to applicable statutes and rules governing administrative procedures before the Board. ( )

**02. Unprofessional Conduct.** A licensee shall not engage in unprofessional conduct in the course of his practice. Unprofessional conduct by a person licensed under the provisions of Title 54, Chapter 9, Idaho Code, is defined as, but not limited to, any of the following: ( )

**a. Fraud.** Obtaining fees by fraud or misrepresentation, or over-treatment either directly or through an insurance carrier. ( )

**b. Unlicensed Practice.** Employing directly or indirectly any suspended or unlicensed individual as defined in Title 54, Chapter 9, Idaho Code. ( )

**c. Unlawful Practice.** Aiding or abetting licensed persons to practice unlawfully. ( )

**d. Dividing Fees.** A dentist shall not divide a fee for dental services with another party, who is not a partner or associate with him in the practice of dentistry, unless: ( )

**i.** The patient consents to employment of the other party after a full disclosure that a division of fees will be made; ( )

**ii.** The division is made in proportion to the services performed and responsibility assumed by each dentist or party. ( )

**e. Prescription Drugs.** Prescribing or administering prescription drugs not reasonably necessary for, or within the scope of, providing dental services for a patient. A dentist may not prescribe or administer prescription drugs to himself. A dentist shall not use controlled substances as an inducement to secure or maintain dental patronage or aid in the maintenance of any person's drug addiction by selling, giving or prescribing prescription drugs. ( )

**f. Harassment.** The use of threats or harassment to delay or obstruct any person in providing evidence in any possible or actual disciplinary action, or other legal action; or the discharge of an employee primarily based on the employee's attempt to comply with the provisions of Title 54, Chapter 9, Idaho Code, or the Board's Rules, or to aid in such compliance. ( )

**g. Discipline in Other States.** Conduct himself in such manner as results in a suspension, revocation or other disciplinary proceedings with respect to his license in another state. ( )

**h. Altering Records.** Alter a patient's record with intent to deceive. ( )

**i. Office Conditions.** Unsanitary or unsafe office conditions, as determined by the customary practice and standards of the dental profession in the state of Idaho and CDC guidelines as incorporated by reference in these rules. ( )

**j. Abandonment of Patients.** Abandonment of patients by licensees before the completion of a phase of treatment, as such phase of treatment is contemplated by the customary practice and standards of the dental

profession in the state of Idaho, without first advising the patient of such abandonment and of further treatment that is necessary. ( )

**k.** Use of Intoxicants. Practicing while under the influence of an intoxicant or controlled substance where the same impairs the licensee's ability to practice with reasonable and ordinary care. ( )

**l.** Mental or Physical Condition. The inability to practice with reasonable skill and safety to patients by reason of age, illness, or as a result of any mental or physical condition. ( )

**m.** Consent. Revealing personally identifiable facts, data or information obtained in a professional capacity without prior consent of the patient, except as authorized or required by law. ( )

**n.** Scope of Practice. Practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities that the licensee knows or has reason to know that he or she is not competent to perform. ( )

**o.** Delegating Duties. Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows, or with the exercise of reasonable care and control should know, that such a person is not qualified by training or by licensure to perform them. ( )

**p.** Unauthorized Treatment. Performing professional services that have not been authorized by the patient or his legal representative. ( )

**q.** Supervision. Failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of a licensed professional. ( )

**r.** Legal Compliance. Failure to comply with any provisions of federal, state or local laws, statutes, rules, and regulations governing or affecting the practice of dentistry, dental hygiene, or dental therapy. ( )

**s.** Exploiting Patients. Exercising undue influence on a patient in such manner as to exploit a patient for the financial or personal gain of a practitioner or of a third party. ( )

**t.** Misrepresentation. Willful misrepresentation of the benefits or effectiveness of dental services. ( )

**u.** Disclosure. Failure to advise patients or their representatives in understandable terms of the treatment to be rendered, alternatives, the name and professional designation of the provider rendering treatment, and disclosure of reasonably anticipated fees relative to the treatment proposed. ( )

**v.** Sexual Misconduct. Making suggestive, sexual or improper advances toward any person or committing any lewd or lascivious act upon or with any person in the course of dental practice. ( )

**w.** Patient Management. Use of unreasonable and/or damaging force to manage patients, including but not limited to hitting, slapping or physical restraints. ( )

**x.** Compliance Professional Standards. Failure to comply with professional standards applicable to the practice of dentistry, dental hygiene, or dental therapy as incorporated by reference in this chapter. ( )

**y.** Failure to Provide Records to a Patient or Patient's Legal Guardian. Refusal or failure to provide a patient or patient's legal guardian with records within five (5) business days. A patient or patient's legal guardian may not be denied a copy of his records for any reason, regardless of whether the person has paid for the dental services rendered. A person may be charged for the actual cost of providing the records but in no circumstances may a person be charged an additional processing or handling fee or any charge in addition to the actual cost. ( )

**z.** Failure to Cooperate with Authorities. Failure to cooperate with authorities in the investigation of any alleged misconduct or interfering with a Board investigation by willful misrepresentation of facts, willful failure to provide information upon request of the Board, or the use of threats or harassment against any patient or witness to

prevent them from providing evidence. ( )

aa. Advertising. Advertise in a way that is false, deceptive, misleading or not readily subject to verification. ( )

**301. – 399. (RESERVED)**

**400. FEES.**

**01. Application and License Fees.** Fees are as follows:

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

( )

**401. -- 999. (RESERVED)**

[Agency redlined courtesy copy]

**24.31.01 – RULES OF THE IDAHO STATE BOARD OF DENTISTRY**

**000. LEGAL AUTHORITY.**

This Chapter is adopted under the legal authority of Chapter 9, Title 54, Idaho Code.( )

**001. SCOPE.**

The rules constitute the minimum requirements for licensure and regulation of dentists, dental hygienists, and dental therapists. ( )

**002. INCORPORATION BY REFERENCE.**

Pursuant to Section 67-5229, Idaho Code, this chapter incorporates by reference the most recent and updated following documents available on the Board's website:( )

**01. Professional Standards.**( )

a. AAOMS, Office Anesthesia Evaluation Manual, ~~8th Edition, 2012~~.( )

b. CDC, Guidelines for Infection Control in Dental Health-Care Settings, ~~2003~~.( )

c. ADA, Guidelines for Use of Sedation and General Anesthesia by Dentists.

~~d.~~ ADA, Principles of Ethics, Code of Professional Conduct and Advisory Opinions, January 2009.  
( )

~~d.~~ ADHA Hygienists' Association, Standards for Clinical Dental Hygiene Practice, 2016.( )

~~003.—009.(RESERVED)~~

~~010~~**003. DEFINITIONS AND ABBREVIATIONS.**

~~01. ACLS. Advanced Cardiovascular Life Support or Pediatric Advanced Life Support.(—)~~

~~02~~**01. ADA.** American Dental Association.( )

~~03~~**02. ADHA.** American Dental Hygienists Association.( )

~~04~~**03. AAOMS.** American Association of Oral and Maxillofacial Surgeons.( )

~~05~~**04. BLS.** Basic Life Support.( )

~~06~~**05. CDC.** Centers for Disease Control and Prevention.( )

~~07~~**06. CODA.** Commission on Dental Accreditation.( )

~~07.~~ **INBDE. Integrated National Board Dental Examination**

~~08. **Deep Sedation.** A drug induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilator function may be impaired. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained.(—)~~

~~09. **Enteral.** Administration of a drug in which the agent is absorbed through the gastrointestinal tract or mucosa.(—)~~

~~10. **EPA.** United States Environmental Protection Agency.(—)~~

~~11. **General Anesthesia.** A drug induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to independently maintain ventilator function is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug induced depression of neuromuscular function. Cardiovascular function may be impaired.(—)~~

~~12. **Inhalation.** Administration of a gaseous or volatile agent introduced into the lungs and whose primary effect is due to absorption through the gas/blood interface.(—)~~

~~13. **Local Anesthesia.** The elimination of sensation, especially pain, in one (1) part of the body by the topical application or regional injection of a drug.(—)~~

~~14. **Minimal Sedation.** A minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal command. Although cognitive function and coordination may be modestly impaired, ventilator and cardiovascular functions are unaffected. In accord with this particular definition, the drugs and/or techniques used should carry a margin of safety wide enough never to render unintended loss of consciousness. Further, patients whose only response is reflex withdrawal from repeated painful stimuli would not be considered to be in a state of minimal sedation.(—)~~

~~15. **Moderate Sedation.** A drug induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained.(—)~~

~~16. **Monitor or Monitoring.** The direct clinical observation of a patient during the administration of sedation by a person trained to observe the physical condition of the patient and capable of assisting with emergency or other procedures.(—)~~

~~17. **NBDE.** National Board Dental Examination.(—)~~

~~1808. **NBDHE.** National Board Dental Hygiene Examination.( )~~

~~19. **Operator.** The supervising dentist or another person who is authorized by these rules to induce and administer sedation.(—)~~

~~20. **Parenteral.** Administration of a drug which bypasses the gastrointestinal tract [i.e., intramuscular, intravenous, intranasal, submucosal, subcutaneous, intraosseous].(—)~~

~~21. **Sedation.** The administration of minimal, moderate, and deep sedation and general anesthesia.(—)~~

004. – 099.(Reserved)

**011. APPLICATION AND LICENSE FEES.**

Application fees are not refunded. A license shall not be issued or renewed unless fees have been paid. License fees are prorated from date of initial licensure to the next successive license renewal date. The application fees and license fees are as follows:

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

( )

**012. EXAMINATIONS FOR LICENSURE.**

**01. Written Examination.** ~~Successful completion of the NBDE may be required of all applicants for a license to practice dentistry or a dental specialty. Successful completion of the NBDHE may be required of all applicants for a license to practice dental hygiene. Applicants for dentistry and dental hygiene are required to pass the INBDE or NBDHE.~~ Dental therapists must successfully complete a board-approved written examination. ~~Any other written examination will be specified by the Board.( )~~

**02. Clinical Examination.** ~~All~~ applicants for a license to practice general dentistry, dental hygiene or dental therapy are required to pass a Board-approved clinical examination upon such subjects as specified by the Board. Applicants for dental hygiene and dental therapy licensure must pass a board-approved clinical local anesthesia examination. Clinical examination results will be valid for licensure by examination for a period of (5) five years from the date of successful completion of the examination.( )

**013. REQUIREMENTS FOR LICENSURE.**



Applicants for licensure ~~to practice dentistry~~ must furnish proof of graduation from a ~~school of dentistry~~ **program in dentistry, dental hygiene, or dental therapy** accredited by CODA at the time of applicant's graduation. ~~Applicants for licensure to practice dental hygiene must furnish proof of graduation from a dental hygiene program accredited by CODA at the time of applicant's graduation. Applicants for licensure to practice dental therapy must furnish proof of graduation from a dental therapy program accredited by CODA at the time of applicant's graduation.~~(—)

**014. REQUIREMENT FOR BLS.**

Applicants for initial licensure will provide proof of current BLS certification. Practicing licensees must maintain current BLS certification.( )

**015. CONTINUING EDUCATION REQUIREMENTS.**

A licensee renewing an active status license shall report 30 oral health/health-related continuing education hour credits to the Board of verifiable CE or volunteer practice.( )

~~016.—020.(RESERVED)~~

~~021. PROVISIONAL LICENSURE.~~

~~This type of license may be granted at the Board's discretion to applicants with active practice within the previous (2) years, current license in good standing in another state, and evidence of not failing an exam given by the Board.~~  
(—)

~~022. VOLUNTEER DENTAL HYGIENE SERVICES.~~

~~A person holding an unrestricted active status dental hygiene license issued by the Board may provide dental hygiene services in an extended access oral health care setting without being issued an extended access license endorsement. The dental hygiene services performed are limited to oral health screening and patient assessment, preventive and oral health education, preparation and review of health history, non surgical periodontal treatment, oral prophylaxis, the application of caries preventive agents including fluoride, the application of pit and fissure sealants with recommendation that the patient will be examined by a dentist;~~(—)

**023. DENTAL HYGIENISTS – LICENSE ENDORSEMENTS.**

The Board may grant license endorsements to qualified dental hygienists as follows:( )

~~01. Extended Access Endorsement. Upon application, the Board may grant an extended access endorsement to a person holding an unrestricted active status dental hygienist's license issued by the Board who provides satisfactory proof that all of the following requirements are met:~~(—)

~~a. The person has been licensed as a dental hygienist during the two (2) year period immediately prior to the date of application for an extended access endorsement;~~(—)

~~b. For a minimum of one thousand (1000) total hours within the previous two (2) years, the person has either been employed as a dental hygienist in supervised clinical practice or has been engaged as a clinical practice educator in an approved dental hygiene school;~~(—)

~~e. The person has not been disciplined by the Board or another licensing authority upon grounds that bear a demonstrable relationship to the ability of the dental hygienist to safely and competently practice under general supervision in an extended access oral health care setting; and~~(—)

~~d. Any person holding an unrestricted active status dental hygienist's license issued by the Board who is employed as a dental hygienist in an extended access oral health care setting in this state may be granted an extended access endorsement without being required to satisfy the experience requirements specified in this rule.~~  
(—)

**02. Extended Access Restorative Endorsement.** Notwithstanding any other provision of these rules, a qualified dental hygienist holding an **extended access** restorative endorsement may perform specified restorative functions under the direct supervision of a dentist ~~in an extended access oral health care setting~~. Permissible restorative functions under this endorsement are limited to the placement of a **direct** restoration into a tooth prepared by a dentist and the carving, contouring and adjustment of the contacts and occlusion of the restoration. Upon

application, the Board may grant an ~~extended access~~ restorative endorsement to a person holding an unrestricted active status dental hygienist's license issued by the Board who provides satisfactory proof that the following requirements are met: ( )

a. The person has successfully completed ~~the Western Regional Examining Board's~~ a clinical restorative examination ~~or an equivalent restorative examination~~ approved by the Board; and ( )

b. The person has not been disciplined by the Board or another licensing authority ~~upon grounds that bear a demonstrable relationship to the ability of the dental hygienist to safely and competently practice under in an extended access oral health care setting.~~ ( )

**03. Renewal.** ~~Upon payment of the appropriate license fee and completion of required CE credits specified for a license endorsement, A~~ person meeting all other requirements for renewal of a license to practice dental hygiene is also entitled to renewal of a license endorsement for the effective period of the license. An endorsement immediately expires and is cancelled at such time as a person no longer holds an unrestricted active status dental hygienist's license issued by the Board ~~or upon a person's failure to complete the required CE.~~ ( )

**024. LICENSURE OF DENTAL SPECIALISTS.**

**01. Requirements for Specialty Licensure.** Each applicant for specialty licensure must have graduated from a CODA accredited dental school ~~and hold a license to practice general dentistry in the state of Idaho or another state. The Board may grant licensure in specialty areas of dentistry for which a dentist has~~ and successfully completed a CODA accredited postdoctoral advanced dental education program of at least two full-time academic years. ( )

**02. Examination.** ~~Specialty licensure in those specialties recognized may be granted solely at the discretion of the Board. An examination covering the applicant's chosen field may be required and, if so, will be conducted by the Board or a testing agent. Examination requirements for a~~ Applicants who have met the requirements for licensure as a specialist ~~may be required to pass an examination as follows:~~ ( )

a. ~~Applicants who have P~~ passed a general licensure examination acceptable to the Board ~~may be granted specialty licensure by Board approval.~~ or. ( )

b. ~~Applicants who have I~~ If passed a general licensure examination not acceptable to the Board, ~~may be required to pass~~ ed a specialty examination: or. ( )

c. ~~Applicants who are B~~ Be certified by the American Board of that particular specialty as of the date of application for specialty licensure ~~may be granted specialty licensure by Board approval.~~ ( )

**03. Limitation of Practice.** No dentist may announce or otherwise hold himself out to the public as a specialist unless he has ~~first complied with the requirements established by the Board for such specialty and has~~ been issued a specialty license ~~authorizing him to do so.~~ Any individual granted a specialty license must limit his practice to the specialty(s) in which he is licensed. ( )

**025. SPECIALTY ADVERTISING.**

The specialty advertising rules are intended to allow the public to be informed about dental specialties and to require appropriate disclosures to avoid misperceptions on the part of the public. (—)

**01. Recognized Specialty License.** An advertisement may not state that a licensee is a specialist unless the licensee has been granted a license in that specialty area of dental practice by the Board. ~~Use of words or terms in advertisements such as "Specialist," "Board Certified," "Diplomate," "Practice Limited To," and "Limited To Specialty Of" shall be prima facie evidence that the licensee is holding himself out to the public as a licensed specialist in a specialty area of dental practice.~~ (—)

**02. Disclaimer.** A licensee who has not been granted a specialty license by the Board may advertise as being qualified in a recognized specialty area of dental practice so long as each such advertisement, regardless of form, contains a prominent, clearly worded disclaimer that the licensee is "licensed as a general dentist" ~~or that the~~

~~specialty services “will be provided by a general dentist.” Any disclaimer in a written advertisement must be in the same font style and size as that in the listing of the specialty area.(——)~~

~~**03. Unrecognized Specialty.** A licensee may not advertise as being a specialist in or as specializing in any area of dental practice which is not a Board recognized and licensed specialty area unless the advertisement, regardless of form, contains a prominent, clearly worded disclaimer that the advertised area of dental practice is not recognized as a specialty area of dental practice by the Idaho Board of Dentistry. Any disclaimer in a written advertisement shall be in the same font style and size as that in the listing of the specialty area.( )~~

**026. PATIENT RECORDS.**

A record must be maintained for each person receiving dental services, regardless of whether any fee is charged. Records must be in the form of an acronym such as “PARQ” (Procedure, Alternatives, Risks and Questions) or “SOAP” (Subjective Objective Assessment Plan) or their equivalent. Patient records must be maintained for no less than seven (7) years from the date of last entry unless: the patient requests the records be transferred to another dentist who will maintain the records, the dentist gives the records to the patient, or the dentist transfers the dentist's practice to another dentist who will maintain the records.( )

~~**027.— 030.(RESERVED)**~~

**031. INFECTION CONTROL.**

~~In determining what constitutes unacceptable patient care with respect to infection control, the Board may consider current infection control guidelines such as those of the CDC. Additionally, L~~icensees and dental assistants must comply with the following requirements: [current CDC infection control guidelines related to personal protective equipment, instrument sterilization, sterilizing device testing, disinfection of non-critical and clinical contact surfaces, and contaminated waste disposal. Heat sterilizing devices must be tested each calendar week in which patients are treated. Testing results must be retained by the licensee for the current calendar year and the two preceding calendar years.](#)( )

~~**01. Gloves, Masks, and Eyewear.** Disposable gloves must be worn whenever placing fingers into the mouth of a patient or when handling blood or saliva contaminated instruments or equipment. Appropriate hand hygiene must be performed prior to gloving. Masks and protective eyewear or chin-length shields must be worn when spattering of blood or other body fluids is likely.(——)~~

~~**02. Instrument Sterilization.** Between each patient use, instruments and other equipment that come in contact with body fluids must be sterilized.(——)~~

~~**03. Sterilizing Devices Testing.** Heat sterilizing devices must be tested for proper function by means of a biological monitoring system that indicates micro organisms kill. Devices must be tested each calendar week in which scheduled patients are treated. Testing results must be retained by the licensee for the current calendar year and the two (2) preceding calendar years.(——)~~

~~**04. Non-Critical Surfaces.** Environmental surfaces that are contaminated by blood or saliva must be disinfected with an EPA registered hospital disinfectant.(——)~~

~~**05. Clinical Contact Surfaces.** Impervious backed paper, aluminum foil, or plastic wrap should be used to cover surfaces that may be contaminated by blood or saliva. The cover must be replaced between patients. If barriers are not used, surfaces must be cleaned and disinfected between patients by using an EPA registered hospital disinfectant. (——)~~

~~**06. Disposal.** All contaminated wastes and sharps must be disposed of according to any governmental requirements. (——)~~

**032. EMERGENCY MEDICATIONS OR DRUGS.**

The following emergency medications or drugs are required in all sites where anesthetic agents of any kind are administered: anti-anaphylactic agent, antihistaminic, aspirin, bronchodilator, coronary artery vasodilator, and glucose. ( )

**033. DENTAL HYGIENISTS – PRACTICE.**

Dental hygienists are ~~hereby authorized to perform the activities specified below;~~ under the supervision of a licensed dentist, at the supervision level set by the dentist, to perform dental hygiene services for which they are trained unless prohibited by these rules.( )

~~01. General Supervision. A dental hygienist may perform specified duties under general supervision as follows: ( )~~

~~a. Oral prophylaxis (removal of stains and plaque biofilm and if present, supragingival and/or subgingival calculus);( )~~

~~b. Medical history assessments and intra-oral and extra-oral assessments (including charting of the oral cavity and surrounding structures, taking case histories and periodontal assessment);( )~~

~~e. Developing patient care plans for prophylaxis, non-surgical periodontal therapy and supportive and evaluative care in accordance with the treatment parameters set by supervising dentist;( )~~

~~d. Root planing;( )~~

~~e. Non-surgical periodontal therapy;( )~~

~~f. Closed subgingival curettage;( )~~

~~g. Administration of local anesthesia;( )~~

~~h. Removal of marginal overhangs (use of high speed handpieces or surgical instruments is prohibited); ( )~~

~~i. Application of topical antibiotics or antimicrobials (used in non-surgical periodontal therapy); ( )~~

~~j. Provide patient education and instruction in oral health education and preventive techniques; ( )~~

~~k. Placement of antibiotic treated materials pursuant to dentist authorization;( )~~

~~l. Administration and monitoring of nitrous oxide/oxygen; and( )~~

~~m. All duties which may be performed by a dental assistant.( )~~

~~02. Direct Supervision. A dental hygienist may perform specified duties under direct supervision as follows: ( )~~

~~a. Use of a laser restricted to gingival curettage and bleaching.( )~~

**034. DENTAL HYGIENISTS – PROHIBITED PRACTICE.**

**01. Diagnosis and Treatment.** Definitive diagnosis and dental treatment planning.( )

**02. Operative Preparation.** The operative preparation of teeth for the placement of restorative materials. ( )

**03. Intraoral Placement or Carving.** The intraoral placement or carving of restorative materials unless authorized by issuance of an extended access restorative endorsement.( )

**04. Anesthesia.** Administration of any general anesthesia or moderate sedation.( )

- 05. **Final Placement.** Final placement of any fixed or removable appliances.( )
- 06. **Final Removal.** Final removal of any fixed appliance.( )
- 07. **Cutting Procedures.** Cutting procedures utilized in the preparation of the coronal or root portion of the tooth, or cutting procedures involving the supportive structures of the tooth.( )
- 08. **Root Canal.** Placement of the final root canal filling.( )
- 09. **Occlusal Equilibration Procedures.** Occlusal equilibration procedures for any prosthetic restoration, whether fixed or removable.( )
- 10. **Other Final Placement.** Final placement of prefabricated or cast restorations or crowns.( )

**035. DENTAL THERAPISTS – PRACTICE.**

Dental therapists are authorized to perform activities specified by the supervising dentist who practices in the same practice setting in conformity with a written collaborative practice agreement at the supervision levels set forth in the agreement. ( )

**036. DENTAL THERAPISTS – PROHIBITED PRACTICE.**

- 01. **Sedation.** Administration of minimal, moderate or deep sedation or general anesthesia except as otherwise allowed by these rules;( )
- 02. **Cutting Procedures.** Cutting procedures involving the supportive structures of the tooth including both the soft and hard tissues.( )
- 03. **Periodontal Therapy.** Periodontal scaling and root planing, including the removal of subgingival calculus.( )
- 04. **All Extractions with Exception.** All extractions except:( )
  - a. Under direct supervision.( )
  - i. Non-surgical extractions.( )
  - b. Under general supervision or as specified in Section 035.( )
    - i. Removal of periodontally diseased teeth with class III mobility.( )
    - ii. Removal of coronal remnants of deciduous teeth.( )
- 05. **Root Canal Therapy.**( )
- 06. **All Fixed and Removable Prosthodontics** (except stainless steel crowns).( )
- 07. **Orthodontics.**( )

**037. DENTAL ASSISTANTS – PRACTICE.**

Dental assistants are authorized to perform dental services for which they are trained unless prohibited by these rules. Dental assistants must be directly supervised by a dentist when performing intraoral procedures except when providing palliative care as directed by the supervising dentist.( )

- 01. **Prohibited Duties.** A dental assistant is prohibited from performing the following duties:( )
  - a. The intraoral placement or carving of permanent restorative materials.( )

- b. Any irreversible procedure.(    )
- c. The administration of any sedation or local injectable anesthetic.(    )
- d. Removal of calculus.(    )
- e. Use of an air polisher.(    )
- f. Any intra-oral procedure using a high-speed handpiece, except for the removal of orthodontic cement or resin. (    )
- g. Any dental hygiene prohibited duty.(    )

~~038. 040.(RESERVED)~~

**041. LOCAL ANESTHESIA.**

Dental offices in which local anesthesia is administered to patients shall, at a minimum, have and maintain suction equipment capable of aspirating gastric contents from the mouth and pharynx, a portable oxygen delivery system including full face masks and a bag-valve mask combination capable of delivering positive pressure, oxygen-enriched ventilation to the patient, a blood pressure cuff of appropriate size and a stethoscope.(    )

**042. NITROUS OXIDE/OXYGEN.**

Persons licensed to practice and dental assistants trained in accordance with these rules may administer nitrous oxide/oxygen to patients.(~~---~~)

~~01. Patient Safety. A dentist must evaluate the patient to ensure the patient is an appropriate candidate for nitrous oxide/oxygen; ensure that any patient under nitrous oxide/oxygen is continually monitored; and ensure that a second person is in the practice setting who can immediately respond to any request from the person administering the nitrous oxide/oxygen.(~~---~~)~~

~~02. Required Facilities and Equipment. Dental offices where nitrous oxide/oxygen is administered to patients must have the following: a fail-safe nitrous oxide delivery system that is maintained in working order; a scavenging system; and a positive-pressure oxygen delivery system suitable for the patient being treated.(~~---~~)~~

~~03. Personnel. For nitrous oxide/oxygen administration, personnel shall include an operator and an assistant currently certified in BLS.(    )~~

**043. MINIMAL SEDATION.**

Persons licensed to practice dentistry may administer minimal sedation to patients of sixteen (16) years of age or older following the ADA guidelines as incorporated by reference pursuant to these rules. When the intent is minimal sedation, the appropriate dosing of a single enteral drug is no more than the maximum FDA-recommended dose for unmonitored home use. In cases where the patient weighs less than one hundred (100) pounds, or is under the age of sixteen (16) years, minimal sedation may be administered without a permit by use of nitrous oxide, or with a single enteral dose of a sedative agent administered in the dental office.(    )

~~01. Patient Safety. The administration of minimal sedation is permissible so long as it does not produce an alteration of the state of consciousness in a patient to the level of moderate sedation, general anesthesia, or deep sedation. A dentist must qualify for and obtain a permit from the Board to be authorized to sedate patients to the level of moderate sedation, general anesthesia, or deep sedation. Nitrous oxide/oxygen may be used in combination with a single enteral drug in minimal sedation, except as described in Section 043 of these rules. Notwithstanding any other provision in these rules, a dentist must initiate and regulate the administration of nitrous oxide/oxygen when used in combination with minimal sedation.(~~---~~)~~

~~02. Personnel. At least one (1) additional person currently certified in BLS must be present in addition to the dentist.(~~---~~)~~

**044. MODERATE SEDATION, GENERAL ANESTHESIA AND DEEP SEDATION.**

Dentists licensed in the state of Idaho ~~cannot may~~ administer moderate sedation, general anesthesia, or deep sedation ~~in the practice of dentistry unless following the ADA guidelines incorporated by reference pursuant to these rules once~~ they have obtained a permit from the Board. ~~A moderate sedation permit may be either enteral or parenteral.~~ A dentist may not administer moderate sedation to children under sixteen (16) years of age and one hundred (100) pounds unless they have qualified for and been issued a moderate parenteral sedation permit. A moderate enteral sedation permit authorizes dentists to administer sedation by either enteral or combination inhalation-ental routes of administration. A moderate parenteral, general anesthesia, or deep sedation permit authorizes a dentist to administer sedation by any route of administration. ~~To qualify for a moderate, general anesthesia, or deep sedation permit, a dentist must provide proof of the following:( )~~

**01. Training Requirements.** For Moderate Sedation Permits, completion of training in the administration of moderate sedation to a level consistent with requirements established by the Board within the five (5) year period immediately prior to the date of application. For General Anesthesia and Deep Sedation Permits, completion of an advanced education program accredited by CODA that affords comprehensive training necessary to administer and manage deep sedation or general anesthesia within the five (5) year period immediately preceding the date of application. The five (5) year requirement is not applicable to applicants who hold an equivalent permit in another state which has been in effect for the twelve (12) month period immediately prior to the application date. Qualifying training courses must be sponsored by or affiliated with a dental school accredited by CODA, or be approved by the Board.( )

~~**02. ACLS.** Verification of current certification in ACLS or PALS, whichever is appropriate for the patient being sedated.( )~~

~~**03. Office Inspection.** The qualified dentist is responsible for the sedative management, adequacy of the facility and staff, diagnosis and treatment of emergencies related to the administration of moderate sedation, general anesthesia, or deep sedation and providing the equipment, drugs and protocol for patient rescue. ~~Evaluators appointed by the Board will inspect the adequacy of the facility and competence of the sedation team prior to issuance of a moderate, general anesthesia, or deep sedation permit and at intervals not to exceed five (5) years. For general anesthesia and deep sedation, the Board adopts the standards incorporated by reference in these rules, as set forth by the AAOMS in their office anesthesia evaluation manual.( )~~~~

~~**a. Facility, Equipment and Drug Requirements.** The following facilities, equipment and drugs must be available for immediate use during the sedation and recovery phase:( )~~

~~i. An operating room large enough to adequately accommodate the patient on an operating table or in an operating chair and to allow an operating team of at least two (2) individuals to freely move about the patient; ( )~~

~~ii. An operating table or chair that permits the patient to be positioned so the operating team can maintain the patient's airway, quickly alter the patient's position in an emergency, and provide a firm platform for the administration of basic life support;( )~~

~~iii. A lighting system that permits evaluation of the patient's skin and mucosal color and a backup lighting system of sufficient intensity to permit completion of any operation underway in the event of a general power failure; ( )~~

~~iv. Suction equipment that permits aspiration of the oral and pharyngeal cavities and a backup suction device which will function in the event of a general power failure;( )~~

~~v. An oxygen delivery system with adequate full face mask and appropriate connectors that is capable of delivering high flow oxygen to the patient under positive pressure, together with an adequate backup system;( )~~

~~vi. A recovery area that has available oxygen, adequate lighting, suction and electrical outlets. The recovery area can be the operating room( )~~

~~vii. A sphygmomanometer, pulse oximeter, oral and nasopharyngeal airways, supraglottic airway~~

~~devices, and automated external defibrillator (AED); and (—)~~

~~viii. Emergency drugs including, but not limited to, pharmacologic antagonists appropriate to the drugs used, bronchodilators, and antihistamines. (—)~~

~~ix. Additional emergency equipment and drugs required for moderate parenteral sedation permits include precordial/pretracheal stethoscope or end-tidal carbon dioxide monitor, intravenous fluid administration equipment, vasopressors, and anticonvulsants. (—)~~

~~x. Additional emergency equipment and drugs required for general anesthesia and deep sedation permits include precordial/pretracheal stethoscope and end-tidal carbon dioxide monitor, intravenous fluid administration equipment, vasopressors, and anticonvulsants. (—)~~

~~**b.** Personnel (—)~~

~~i. For moderate sedation, the minimum number of personnel is two (2) including: the operator and one (1) additional individual currently certified in BLS. (—)~~

~~ii. For general anesthesia or deep sedation, the minimum number of personnel is three (3) including: the operator and two (2) additional individuals currently certified in BLS. When the same individual administering the general anesthesia or deep sedation is performing the dental procedure one (1) of the additional individuals must be designated for patient monitoring. (—)~~

~~iii. Auxiliary personnel must have documented training in BLS, will have specific assignments, and shall have current knowledge of the emergency cart inventory. The dentist and all office personnel must participate in documented periodic reviews of office emergency protocol, including simulated exercises, to assure proper equipment function and staff interaction. (—)~~

~~**e.** Pre sedation Requirements. Before inducing moderate sedation, general anesthesia, or deep sedation a dentist must: (—)~~

~~i. Evaluate the patient's medical history and document, using the American Society of Anesthesiologists Patient Physical Status Classifications, that the patient is an appropriate candidate for moderate sedation, general anesthesia, or deep sedation; (—)~~

~~ii. Give written preoperative and postoperative instructions to the patient or, when appropriate due to age or psychological status of the patient, the patient's guardian; (—)~~

~~iii. Obtain written informed consent from the patient or patient's guardian for the sedation; and (—)~~

~~iv. Maintain a sedation record and enter the individual patient's sedation into a case/drug log. (—)~~

~~**d.** Patient Monitoring. Patients must be monitored as follows: (—)~~

~~i. For moderate sedation the patient must be continuously monitored using pulse oximetry. For general anesthesia or deep sedation, the patient must be continuously monitored using pulse oximetry and end-tidal carbon dioxide monitors. (—)~~

~~ii. The patient's blood pressure, heart rate, and respiration must be recorded every five (5) minutes during the sedation and then continued every fifteen (15) minutes until the patient meets the requirements for discharge. These recordings must be documented in the patient record. The record must also include documentation of preoperative and postoperative vital signs, all medications administered with dosages, time intervals and route of administration. If this information cannot be obtained, the reasons must be documented in the patient's record. (—)~~

~~iii. During the recovery phase, the patient shall be monitored by an individual trained to monitor~~



~~patients recovering from sedation; ( )~~

~~iv. A dentist will not release a patient who has undergone sedation except to the care of a responsible third party; ( )~~

~~v. The dentist will assess the patient's responsiveness using preoperative values as normal guidelines and discharge the patient only when the following criteria are met: vital signs are stable, patient is alert and oriented, and the patient can ambulate with minimal assistance; and ( )~~

~~vi. A discharge entry will be made by the dentist in the patient's record indicating the patient's condition upon discharge and the name of the responsible party to whom the patient was discharged. ( )~~

~~e. Sedation of Other Patients. The permit holder must not initiate sedation on another patient until the previous patient is in a stable monitored condition and in the recovery phase following discontinuation of their sedation. ( )~~

**045. SEDATION PERMIT RENEWAL.**

**01. Permit Renewal.** Before the expiration date of a permit, the board will provide notice of renewal to the licensee. Failure to timely submit a renewal application and permit fee shall result in expiration of the permit and termination of the licensee's right to administer sedation. Failure to submit a complete renewal application and permit fee within thirty (30) days of expiration of the permit shall result in cancellation of the permit. Renewal of the permit will be required every five (5) years. Proof of a minimum of twenty-five (25) continuing education credit hours in sedation which may include training in medical/office emergencies will be required to renew a permit. ~~In addition to the continuing education credit hours, a dentist must: ( )~~

~~a. For a moderate enteral sedation permit, maintain current certification in BLS or ACLS. ( )~~

~~b. For a moderate parenteral, general anesthesia, or deep sedation permit, maintain current certification in ACLS. ( )~~

**02. Reinstatement.** A dentist may apply for reinstatement of a canceled or surrendered permit issued by the Board within five (5) years of the date of the permit's cancellation or surrender. Applicants for reinstatement of a sedation permit must satisfy the facility and personnel requirements and verify they have obtained an average of five (5) continuing education credit hours in sedation for each year subsequent to the date upon which the permit was canceled or surrendered. A fee for reinstatement will be assessed. ( )

**046. SUSPENSION, REVOCATION OR RESTRICTION OF SEDATION PERMIT.**

The Board may, at any time and for just cause, institute proceedings to revoke, suspend, or otherwise restrict a sedation permit ~~issued pursuant to Section 044 of these rules~~. If the Board determines that emergency action is necessary to protect the public, summary suspension may be ordered pending further proceedings. Proceedings to suspend, revoke or restrict a permit shall be subject to applicable statutes and rules governing administrative procedures before the Board. ( )

~~**047. DETERMINATION OF DEGREE OF SEDATION BY THE BOARD.**~~

~~In any matter under review or in any proceeding being conducted in which the Board must determine the degree of central nervous system depression, the Board may base its findings or conclusions on, among other matters, the type, and dosages, and routes of administration of drugs administered to the patient and what result can reasonably be expected from those drugs in those dosages and routes administered in a patient of that physical and psychological status. ( )~~

**048. USE OF OTHER ANESTHESIA PERSONNEL.**

A dentist who does not hold a sedation permit may perform dental procedures in a dental office on a patient who receives sedation induced by an anesthesiologist, a certified registered nurse anesthetist, or another dentist with a sedation permit ~~as follows: ( )~~

~~**01. Facility, Equipment, Drugs, and Personnel Requirements.** The dentist will have the same~~

~~facility, equipment, drugs, and personnel available during the procedure and during recovery as required of a dentist who has a permit for the level of sedation being provided.( )~~

~~**02. Patient's Condition Monitored Until Discharge.** The qualified sedation provider who induces sedation will monitor the patient's condition until the patient is discharged ~~and record the patient's condition at discharge in the patient's dental record as required by the rules applicable to the level of sedation being induced.~~ The sedation record must be maintained in the patient's dental record and is the responsibility of the dentist who is performing the dental procedures.( )~~

~~**03. Use of Services of a Qualified Sedation Provider.** A dentist who intends to use the services of a qualified sedation provider must notify the Board in writing of his intent. Such notification need only be submitted once every licensing period.( )~~

~~**04. Advertising.** A dentist who intends to use the services of a qualified sedation provider may advertise the service provided so long as each such advertisement contains a prominent disclaimer that the service "will be provided by a qualified sedation provider."( )~~

**049. INCIDENT REPORTING.**

Dentists must report to the Board, in writing, within seven (7) days after the death or transport to a hospital or emergency center for medical treatment for a period exceeding twenty-four (24) hours of any patient ~~to whom sedation was administered.~~( )

~~**050. 055.(RESERVED)**~~

**056. UNPROFESSIONAL CONDUCT.**

A licensee shall not engage in unprofessional conduct in the course of his practice. Unprofessional conduct by a person licensed under the provisions of Title 54, Chapter 9, Idaho Code, is defined as, but not limited to, ~~one (1)~~ any of the following: ( )

**01. Fraud.** Obtaining fees by fraud or misrepresentation, or over-treatment either directly or through an insurance carrier.( )

**02. Unlicensed Practice.** Employing directly or indirectly any suspended or unlicensed individual as defined in Title 54, Chapter 9, Idaho Code.( )

**03. Unlawful Practice.** Aiding or abetting licensed persons to practice unlawfully.( )

**04. Dividing Fees.** A dentist shall not divide a fee for dental services with another party, who is not a partner or associate with him in the practice of dentistry, unless:( )

**a.** The patient consents to employment of the other party after a full disclosure that a division of fees will be made; ( )

**b.** The division is made in proportion to the services performed and responsibility assumed by each dentist or party. ( )

**05. Prescription Drugs.** Prescribing or administering prescription drugs not reasonably necessary for, or within the scope of, providing dental services for a patient. A dentist may not prescribe or administer prescription drugs to himself. A dentist shall not use controlled substances as an inducement to secure or maintain dental patronage or aid in the maintenance of any person's drug addiction by selling, giving or prescribing prescription drugs. ( )

**06. Harassment.** The use of threats or harassment to delay or obstruct any person in providing evidence in any possible or actual disciplinary action, or other legal action; or the discharge of an employee primarily based on the employee's attempt to comply with the provisions of Title 54, Chapter 9, Idaho Code, or the Board's Rules, or to aid in such compliance.( )

- 07. Discipline in Other States.** Conduct himself in such manner as results in a suspension, revocation or other disciplinary proceedings with respect to his license in another state.( )
- 08. Altering Records.** Alter a patient's record with intent to deceive.( )
- 09. Office Conditions.** Unsanitary or unsafe office conditions, as determined by the customary practice and standards of the dental profession in the state of Idaho and CDC guidelines as incorporated by reference in these rules. ( )
- 10. Abandonment of Patients.** Abandonment of patients by licensees before the completion of a phase of treatment, as such phase of treatment is contemplated by the customary practice and standards of the dental profession in the state of Idaho, without first advising the patient of such abandonment and of further treatment that is necessary. ( )
- 11. Use of Intoxicants.** Practicing while under the influence of an intoxicant or controlled substance where the same impairs the licensee's ability to practice with reasonable and ordinary care.( )
- 12. Mental or Physical Condition.** The inability to practice with reasonable skill and safety to patients by reason of age, illness, or as a result of any mental or physical condition.( )
- 13. Consent.** Revealing personally identifiable facts, data or information obtained in a professional capacity without prior consent of the patient, except as authorized or required by law.( )
- 14. Scope of Practice.** Practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities that the licensee knows or has reason to know that he or she is not competent to perform.( )
- 15. Delegating Duties.** Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows, or with the exercise of reasonable care and control should know, that such a person is not qualified by training or by licensure to perform them.( )
- 16. Unauthorized Treatment.** Performing professional services that have not been authorized by the patient or his legal representative.( )
- 17. Supervision.** Failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of a licensed professional.( )
- 18. Legal Compliance.** Failure to comply with any provisions of federal, state or local laws, statutes, rules, and regulations governing or affecting the practice of dentistry, ~~or~~ dental hygiene, ~~or~~ dental therapy.( )
- 19. Exploiting Patients.** Exercising undue influence on a patient in such manner as to exploit a patient for the financial or personal gain of a practitioner or of a third party.( )
- 20. Misrepresentation.** Willful misrepresentation of the benefits or effectiveness of dental services. ( )
- 21. Disclosure.** Failure to advise patients or their representatives in understandable terms of the treatment to be rendered, alternatives, the name and professional designation of the provider rendering treatment, and disclosure of reasonably anticipated fees relative to the treatment proposed.( )
- 22. Sexual Misconduct.** Making suggestive, sexual or improper advances toward ~~any patient person~~ or committing any lewd or lascivious act upon or with ~~any patient person in the course of dental practice~~.( )
- 23. Patient Management.** Use of unreasonable and/or damaging force to manage patients, including but not limited to hitting, slapping or physical restraints.( )
- 24. Compliance ~~with Dentist~~ Professional Standards.** Failure ~~by a dentist~~ to comply with

professional standards applicable to the practice of dentistry, dental hygiene, or dental therapy as incorporated by reference in this chapter. ( )

~~25. **Compliance with Dental Hygienist Professional Standards.** Failure by a dental hygienist to comply with professional standards applicable to the practice of dental hygiene, as incorporated by reference in this chapter. ( )~~

**26. Failure to Provide Records to a Patient or Patient's Legal Guardian.** Refusal or failure to provide a patient or patient's legal guardian with records within five (5) business days. A patient or patient's legal guardian may not be denied a copy of his records for any reason, regardless of whether the person has paid for the dental services rendered. A person may be charged for the actual cost of providing the records but in no circumstances may a person be charged an additional processing or handling fee or any charge in addition to the actual cost. ( )

**27. Failure to Cooperate with Authorities.** Failure to cooperate with authorities in the investigation of any alleged misconduct or interfering with a Board investigation by willful misrepresentation of facts, willful failure to provide information upon request of the Board, or the use of threats or harassment against any patient or witness to prevent them from providing evidence. ( )

**28. Advertising.** Advertise in a way that is false, deceptive, misleading or not readily subject to verification. ( )

~~057. 099.(RESERVED)~~

**IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES**

**24.35.01 – RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD**

**DOCKET NO. 24-3501-2301**

**NOTICE OF RULEMAKING – PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, and Sections 36-2107, 36-2110, 36-2113, 36-2119, 67-2614, 67-9406, and 67-9409, Idaho Code.

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

<b>Monday, September 18, 2023, 10:00 a.m. MT</b>
<b>Division of Occupational and Professional Licenses Chinden Campus Building 4 11341 W. Chinden Blvd., Bldg. #4 Boise, ID 83714</b>
<b>Telephone and web conferencing information will be posted on: <a href="https://dopl.idaho.gov/calendar/">https://dopl.idaho.gov/calendar/</a> and <a href="https://townhall.idaho.gov/">https://townhall.idaho.gov/</a></b>

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

**DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This proposed rulemaking is being presented to create better consistency between the statutes and rules. The rulemaking will clarify the impact of tag transfers and create better consistency with the tag allocations made by the Fish and Game Commission pursuant to Section 36-408(4), Idaho Code. The rulemaking will also address the outfitter limitations on Idaho rivers, lakes and reservoirs.

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

Fees are not affected or addressed by this rule change.

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

This rulemaking is not anticipated to have any negative fiscal impact on the State General Fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted under Docket No. 24-3501-2301. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 5, 2023 Idaho Administrative Bulletin, [Vol. 23-7, pp. 96-97](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this proposed rule, contact Greg Loos, Counsel, at (208) 577-2586. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2023.

DATED this 8th day of August, 2023.

Katie Stuart  
Bureau Chief  
11341 W. Chinden Blvd., Bldg. #4  
Boise, ID 83714  
Phone: (208) 577-2489  
Email: [katie.stuart@dopl.idaho.gov](mailto:katie.stuart@dopl.idaho.gov)  
Website: <https://dopl.idaho.gov/>

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 24-3501-2301**  
**(Only Those Sections With Amendments Are Shown.)**

**257. DESIGNATION OF ALLOCATED DEER AND ELK TAGS.**

For the purposes of this section, an outfitting operation is an outfitter licensee whose licensed activities include hunting for the species in the area of the allocated tag being designated. When IFGC allocates tags, the allocated tags will be designated pursuant to Section 36-2120, Idaho Code, and this rule. The designation applies for the next season unless IFGC adjusts the number of allocated tags for the hunt. (4-6-23)

**01. Notification.** All notices, orders, or other documents may be made to the email address on file with the Board. (4-6-23)

**02. Outfitted Hunter Tag Use History.** Each outfitter's hunter tag use history will be determined from the use recorded by IFGC pursuant to Section 36-408(4), Idaho Code, and as may be adjusted as a result of a tag transfer or hardship request that is approved by the Board. (4-6-23)

**a.** Transfers. An outfitting operation is credited for use of an allocated tag that it transfers to another outfitting operation for use that year in the same hunt. The receiving outfitting operation is not credited for using the transferred tag. (4-6-23)

**b.** Surrenders. An outfitting operation may surrender a designated allocated tag(s) to the undesignated tag pool for use by any outfitting operation in the same hunt. The surrendering outfitting operation is not credited for use of the surrendered tag unless it later uses the tag from the pool. (4-6-23)

**03. New Hunt Allocated Tag Designation.** When the IFGC allocates tags for a newly capped or controlled hunt, the allocated tags will be designated proportionately as follows: (4-6-23)

**a.** Divide each outfitting operation's base allocation by the total of all base allocations in the hunt, resulting in a percentage of total use. Truncate the decimal at the hundredths place. (4-6-23)

**b.** Multiply the percentage of total use from Subsection 257.03.a. of these rules by the total number of allocated tags for the hunt, which determines the number of allocated tags designated to the outfitting operation. (4-6-23)

**04. Use of Previously Designated Allocated Tags.** For established capped or controlled hunts, allocated tags will first be designated to each outfitting operation in an amount equal to the outfitting operation's use

of the allocated tags previously designated to it for the same hunt. (4-6-23)

**a.** In a capped hunt, the use of previously designated allocated tags is the average use of allocated tags in the preceding two (2) years; in the event that IFGC adjusts the number of allocated tags in a hunt where there is only one (1) year of allocation, the Board will not average the use. (4-6-23)

**b.** In a controlled hunt, the use of previously designated allocated tags is the highest year of use of allocated tags in the preceding two (2) years. (4-6-23)

**05. Remaining or Additional Allocated Tags.** Allocated tags not designated above will be designated proportionately as follows: (4-6-23)

**a.** Subtract each outfitting operation's use of previously designated allocated tags from Subsection 257.04 from its base allocation number to determine the number of non-allocated tags it used for a capped hunt or the matching hunt with non-allocated tags for a controlled hunt, when necessary to determine non-allocated tag use; then (4-6-23)

**b.** Divide the result by the total number of non-allocated tags used by all outfitting operations, resulting in a percentage of the total non-allocated tags used by outfitting operations in that hunt. Truncate the decimal at the hundredths place; and finally (4-6-23)

**c.** Multiply the percentage of total use from Subsection 257.05.b. by the number of allocated tags yet to be designated, which determines the number of allocated tags designated to the outfitting operation. (4-6-23)

**06. Rounding.** If allocated tag designation results in a partial tag, the calculation will be rounded up when a decimal equals or exceeds six tenths (0.6) and rounded down when a decimal is less than six tenths (0.6). When calculating after a reduction of allocated tags pursuant to Section 36-2120(4), Idaho Code, the calculation will be rounded up when a decimal equals or exceeds five tenths (0.5) and rounded down when a decimal is less than five tenths (0.5). (4-6-23)

**07. Tie-breaker.** If, after applying Subsections 257.03 through 06, there is a surplus or deficit of allocated tags to be designated, the unrounded proportion from Subsection 257.05, with as many decimal places as necessary, will be used, and then as follows: (4-6-23)

**a.** After a reduction in allocated tags, surplus tags will first be designated in amounts to restore outfitter operations to the number of tags that would have otherwise been designated pursuant to Subsection 257.04 or as close thereto as practicable. (4-6-23)

**b.** If a surplus, the outfitting operation whose unrounded proportion is the greatest will be designated one (1) tag, and if there are additional surplus tags, the outfitter with the next greatest unrounded proportion will be designated one (1) allocated tag, and repeated in descending unrounded proportions until all surplus tags are designated. In the event there is more than one outfitting operation with the same unrounded proportion and there are insufficient undesignated tags to designate to each outfitter, the undesignated tag will be designated based on a random drawing between those outfitting operations. (4-6-23)

**c.** A deficit will be resolved from the outfitting operation whose unrounded proportion is closest to six tenths (0.6), and then next closest to six tenths (0.6) when there is a deficit of more than one (1) allocated tag. If there is more than one (1) outfitting operation with the same unrounded proportion, a random drawing will be held between those outfitters. (4-6-23)

**08. Stipulation by Outfitters.** Outfitting operations in a hunt may submit to the Board a written stipulation determining the number of allocated tags designated to each outfitting operation in that hunt. The stipulation must be signed by all eligible outfitting operations for the hunt; however, under special circumstances, the Board may waive the requirement of approval from all other outfitting operations. If the Board approves the stipulation, the stipulation will be effective until the next designation of allocated tags for the hunt. On or before November 1 preceding the hunt, any outfitting operation may petition the Board to vacate the stipulation for good cause that would make it unconscionable or unjust to enforce the stipulation. If the Board vacates the stipulation, the

allocated tags in that hunt will be designated pursuant to Section 36-2120, Idaho Code, and this rule. (4-6-23)

**09. Undesignated Tag Pool.** Any designated allocated tags that are surrendered or have not been utilized by an outfitting operation on or before July 16 or the next business day for a capped hunt, or on or before September 10 or the next business day for a controlled hunt, will be available in an undesignated pool for any outfitting operation, as follows: (4-6-23)

**a.** Beginning April 10 preceding the hunt, an outfitting operation may submit a request for an allocated tag from the pool. The request must be on a Board-approved form. (4-6-23)

**b.** Beginning April 20 preceding the hunt or next business day, an allocated tag will be designated from the pool on a first-come, first-served basis to an outfitting operation without any designated allocated tags or which has utilized all of its designated allocated tags, using a waiting list when necessary. A maximum of two (2) allocated tags will be designated to each requesting outfitting operation until all other requesting outfitting operations have been served, then a requesting outfitting operation is eligible to receive a maximum of two (2) additional allocated tags from the pool, repeated until all requesting outfitting operations are served or until no tags remain. (4-6-23)

**c.** No tags designated from the pool will be considered for historical use calculations until all tag transfers are recorded and all hardship requests have been resolved. ( )

**10. Objection to Calculation.** If an outfitting operation believes the calculation is incorrect, it may object by filing a petition with the Board within fourteen (14) days from the date the notification was sent and in accordance with the Idaho Administrative Procedures Act. The petition will include any supporting information or documentation. (4-6-23)

**a.** All outfitting operations in the hunt in question will be notified of the petition. (4-6-23)

**b.** The outfitting operation bears the burden of establishing that the calculation was incorrect. (4-6-23)

**11. Hardship Request.** An outfitting operation may submit a written hardship request to maintain all or a portion of previous outfitted hunter tag use history when the outfitting operation shows good cause that its use of allocated designated tags was impacted by circumstances beyond the outfitting operation's control. The request must be submitted on or before a deadline set by the Board. The outfitting operation must provide information or documentation as requested by the Board to substantiate the request. (4-6-23)

**12. Change in Operating Area or Owner of Business.** When an outfitting operation is sold or when an operating area is adjusted through a sale and designated allocated tags are associated with the affected operating area, the associated designated allocated tags and tag use history will transfer to the new owner. (4-6-23)

**(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. (4-6-23)

**01. Licensable Waters – River Sections (BL1) Blackfoot River through (PR1) Priest River – Table:**



River/Section	Maximum No. Power	Maximum No. Float
<p><b>(BL1) Blackfoot River</b> - 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 Camp-ground  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><b>(BO1) Boise River, South Fork</b> - 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><b>(BO1A) Boise River</b> - Eckert Road Bridge to Main Street Bridge.</p>	none	
<p><b>(BO1B) Boise River</b> - Main Street Bridge to West side of Garden City limits.</p>	none	
<p><b>(BO2) Boise River</b> - Downstream from the west side of the Garden City municipal limits to the east side of the Caldwell municipal limits. A maximum of two (2) outfitters may be licensed for fishing in addition to float boating. 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
<p><b>(CF1) Clark Fork River</b> - Montana state line to Lake Pend Oreille (boating closing date September 30)</p>	4 <del>2</del> outfitters for either power or float or combination thereof	
<p><b>(CF2) Clark Fork River</b> - Entire river upstream of a straight line extending north of county boat dock (near mouth of Johnson Creek) to Bear Paw Point (southwest tip of Denton Slough) (boating limited to Memorial Day through September 30)</p>	2 outfitters for either power or float or combination thereof	
<p><b>(CL1) Clearwater River</b> - 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.</p>	none	5
<p><b>(CL2) Clearwater River</b> - 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.</p>	6	10

River/Section	Maximum No. Power	Maximum No. Float
<b>(CL3) Clearwater River</b> - 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
* <b>(NFCL) North Fork Clearwater River</b> - Kelly Forks Bridge downstream to backwaters of Dworshak Reservoir	none	4
<b>(CDNF) Headwaters of North Fork Coeur d'Alene</b> - 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
<b>(CD1) Coeur d'Alene River</b> - 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
<b>(CD2) Coeur d'Alene River</b> - 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
<b>(CD3) Lateral (Coeur d'Alene chain) Lakes</b> - 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
* <b>(JB1) Jarbidge/Bruneau Rivers</b>	none	4
<b>(KO1) Kootenai River</b> - Montana state line to Canada boundary	5	5
<b>(LCL1) Little North Fork Clearwater River</b> - 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
* <b>(LO1) Lochsa River</b>	none	5
<b>(MO1) Moyie River</b> - Canada boundary to Bonners Ferry Municipal Dam (boating closing date July 20)	none	5
* <b>(OW1) Owyhee River</b> - 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
<b>(PN1) Payette River, North Fork</b> - 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

River/Section	Maximum No. Power	Maximum No. Float
<b>(PN1A) Payette River, North Fork</b> - 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
<b>(PN2) Payette River, North Fork</b> - Cabarton to Smiths Ferry Bridge	none	5
<b>(PS1) Payette River, South Fork</b> - Grandjean to Deadwood River	none	5
* <b>(PS2) Payette River, South Fork</b> - Deadwood River to Banks	none	5
<b>(PA1) Payette River</b> - Banks to Black Canyon Dam	none	5
<b>(PO1) Pend Oreille River</b>	5	5
<b>(PR1) Priest River</b> - Dickensheet Campground to Priest River City	none	5 <del>2</del>

(4-6-23)( )

**02. Licensable Waters – River Sections (MF1) Middle Fork Salmon River through (SE2) Selway River – Table:**

River/Section	Maximum No. Power	Maximum No. Float
<b>###(MF1) Salmon River, Middle Fork</b> - Boundary Creek to Cache Bar on the Salmon River	none	27
<b>(SA1) Salmon River</b> - First bridge across Salmon River above Redfish Lake Creek to Torrey's Bar	none	6
<b>(SA2) Salmon River</b> - 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
<b>(SA3) Salmon River</b> - 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
<b>(SA4A) Salmon River</b> - 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
<b>(SA4B) Salmon River</b> - 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

<b>River/Section</b>	<b>Maximum No. Power</b>	<b>Maximum No. Float</b>
<b>(SA5) Salmon River</b> - North Fork to Corn Creek	3	9
<b>###(SA6) Salmon River</b> - 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
<b>* (SA7A) Salmon River</b> - 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
<b>* (SA7B) Salmon River</b> - 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
<b>* (SA7C) Salmon River</b> - 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
<b>###(SA8) Salmon River</b> - Hammer Creek to Heller Bar or Lewiston on the Snake River	15	35
<b>* (SE1) Selway River</b> - Paradise Campground to Selway Falls	none	4
<b>(SE2) Selway River</b> - 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

(4-6-23)

**03. Licensable Waters – River Sections (SH1) Henry’s Fork Snake River through (TE3) Teton River – Table:**

River/Section	Maximum No. Power	Maximum No. Float
<p><b>(SH1) Snake River, Henry's Fork</b> - 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><b>(SH2) Snake River, Henry's Fork</b> - 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><b>(SH3) Snake River, Henry's Fork</b> - 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"> <li>a) St. Anthony to Red Road Bridge Boat Access (i.e., Parker/Salem or Fort Henry)</li> <li>b) Red Road Bridge Boat Access to Warm Slough Boat Access</li> <li>c) Warm Slough Boat Access to Menan Boat Access</li> </ul> <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/Section	Maximum No. Power	Maximum No. Float
<p><b>(SS1) Snake River - South Fork</b> - 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>	None*	8**

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><b>(SN1) Snake River</b> - 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).  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>	
<p><b>(SN2) Snake River</b> - 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> <p>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> <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>	

River/Section	Maximum No. Power	Maximum No. Float
<p><b>(SN3) Snake River</b> - 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> <p>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> <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) week-days 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>	3 outfitters either float or power or combination thereof	
<b>(SN4) Snake River</b> - Massacre Rocks State Park to Milner Dam	3	3
* <b>(SN5) Snake River</b> - Milner Dam to Star Falls	none	3
* <b>(SN6) Snake River</b> - Star Falls to Twin Falls	none	5
<b>(SN7) Snake River</b> - Twin Falls to Lower Salmon Falls Dam	3	3
<b>(SN8) Snake River</b> - Lower Salmon Falls Dam to Bliss Dam	3	5
<b>(SN9) Snake River</b> - Bliss Dam to headwaters of C.J. Strike Reservoir	5	5
<b>(SN10) Snake River</b> - C.J. Strike Dam to Walter's Ferry	5 outfitters for either power or float or combination thereof	
<b>(SN11) Snake River</b> - Walter's Ferry to headwaters of Brownlee Reservoir	5	none
* <b>(SN12) Snake River</b> - Hells Canyon Dam to Pittsburg Landing	18	15
* <b>(SN13) Snake River</b> - Hells Canyon Dam to Pittsburg Landing, two (2) one-day float trips only	none	2
<b>(SN14) Snake River</b> - Pittsburg Landing to Heller Bar or Lewiston	19	15



River/Section	Maximum No. Power	Maximum No. Float
<b>(SN15) Snake River</b> - Washington/Oregon stateline to Lewiston	Limitations pending. (This section is set aside for future rules of fishing only outfitters.)	
<b>(SJ1) St. Joe River</b> - St. Joe River Headwaters to Red Ives. No outfitted boating. One (1) walk and wade only fishing outfitter.	none 2	none
<b>(SJ2) St. Joe River</b> - 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
<b>(SJ3) St. Joe River</b> - Avery to St. Joe City Bridge	none	2
<b>(SJ4) St. Joe River</b> - St. Joe City Bridge to Lake Coeur d'Alene	2	none
<b>(SM1) St. Maries River</b>	5	5
<b>(TE1) Teton River</b> - Upper put-in to Cache Bridge, motors not to exceed 10 hp	5 outfitters for either power or float or combination thereof	
<b>(TE2) Teton River</b> - Cache Bridge to Harrop Bridge, motors not to exceed 10 hp	6 outfitters for either power or float or combination thereof	

River/Section	Maximum No. Power	Maximum No. Float
<p><b>(TE3) Teton River</b> - 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. (4-6-23)

**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
<del>Hayden Lake</del>	<del>4</del>	<del>2</del>
Henry's Lake	8	2
Island Park Reservoir	7	2
Magic Reservoir	3	2
Palisades Reservoir	10	2

Lake or Reservoir	Maximum No. of Operators	Maximum No. Boats per Operator per Lake or Reservoir
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

~~(4-6-23)~~( )

**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. (4-6-23)

# IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

## 24.38.01 – RULES OF THE STATE OF IDAHO BOARD OF VETERINARY MEDICINE

### DOCKET NO. 24-3801-2301 (ZBR CHAPTER REWRITE, FEE RULE)

#### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, and Sections 54-2103, 54-2104, 54-2105, 54-2112, 54-2115, 54-2118, 67-2614, 67-9406 and 67-9409, Idaho Code.

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

<b>Thursday, September 14, 2023, 9:00 a.m. MT</b>
<b>Division of Occupational and Professional Licenses Chinden Campus Building 4 11341 W. Chinden Blvd., Bldg. #4 Boise, ID 83714</b>
<b>Telephone and web conferencing information will be posted on: <a href="https://dopl.idaho.gov/calendar/">https://dopl.idaho.gov/calendar/</a> and <a href="https://townhall.idaho.gov/">https://townhall.idaho.gov/</a></b>

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

**DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Under [Executive Order 2020-01, Zero-Based Regulation](#), the State of Idaho Board of Veterinary Medicine 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 to use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and Executive Order 2020-01.

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

The fees for applications, licenses, and reinstatement as designated in Rule 400 of these proposed rules are authorized in Section 54-2105, Idaho Code. None of these fees are being changed as a result of this rulemaking or since being previously reviewed by the Idaho legislature.

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

This rulemaking is not anticipated to have any negative fiscal impact on the State General Fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted under Docket No. 24-ZBRR-2301. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 5, 2023 Idaho Administrative Bulletin, [Vol. 23-4, pp. 42-46](#).

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

Principles of Veterinary Medical Ethics, published by the American Veterinary Medical Association (AVMA).

The ethics code cited is incorporated by reference because it would be unduly cumbersome, expensive, or otherwise inexpedient to republish all or in part. The ethics code is adopted by a nationally recognized organization or association.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this proposed rule, contact Katie Stuart, Bureau Chief, at (208) 577-2489. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2023.

DATED this 4th day of August, 2023.

Katie Stuart  
Bureau Chief  
11341 W. Chinden Blvd., Bldg. #4  
Boise, ID 83714  
Phone: (208) 577-2489  
Email: [katie.stuart@dopl.idaho.gov](mailto:katie.stuart@dopl.idaho.gov)

**THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 24-3801-2301**  
**(ZBR Chapter Rewrite)**

*\*Note – Due to extensive reorganization of this ZBR chapter, the rule text below is presented as clean text without showing amendments in legislative format. A redline copy provided by the agency has been included at the end of the docket for transparency and can be utilized to track all edits used to formulate the proposed rule.*

**24.38.01 – RULES OF THE STATE OF IDAHO BOARD OF VETERINARY MEDICINE**

**000. LEGAL AUTHORITY.**

This chapter is adopted under the legal authority of Title 54, Chapter 21, Idaho Code. ( )

**001. SCOPE.**

The rules govern the licensing procedures, supervision requirements, standards of practice, inspections, and grounds for discipline of veterinarians, veterinary technicians, Committee on Humane Euthanasia members, and certified euthanasia technicians and agencies. ( )

**002. INCORPORATION BY REFERENCE.**

The most current and updated Principles of Veterinary Medical Ethics of the American Veterinary Medical Association (AVMA), is incorporated herein by reference in accordance with the provisions of Section 67-5229, Idaho Code. ( )

**003. -- 099. (RESERVED)**

**100. LICENSURE.**

**01. Certification Of Veterinary Technicians. ( )**

**a.** Certificate Required. Any person representing themselves as a licensed, registered, or certified veterinary technician, shall hold a valid, unexpired certificate to practice veterinary technology in Idaho. ( )

**b.** Application for Certification. An individual desiring to be certified as a veterinary technician shall make written application, available online, to the Board. ( )

**02. Foreign Veterinary Graduate.** The Board may issue a license to applicants who are graduates of nonaccredited foreign colleges of veterinary medicine who possess a certificate issued by the American Veterinary Medical Association Educational Commission for Foreign Veterinary Graduates (ECFVG) or a certificate issued by the Program for the Assessment of Veterinary Education Equivalence (PAVE) as administered by the American Association of Veterinary State Boards (AAVSB). ( )

**03. Certified Euthanasia Agency.** In order to be certified to purchase and store approved drugs, certified euthanasia agencies shall be inspected by the Board in accordance with the standards promulgated by the Committee on Humane Euthanasia and approved by the Board. The approved standards will be made available online to the public. ( )

**04. Certified Euthanasia Technician. ( )**

**a.** Training and Examinations. Qualifying training courses must be sponsored by or affiliated with a veterinary medicine school accredited by the AVMA or be approved by the Board. ( )

**05. Continuing Education.** A renewing a licensee shall report fifteen (15) hours of completed continuing education to the Board. ( )

**101. -- 199. (RESERVED)**

**200. PRACTICE STANDARDS.**

**01. Supervising Veterinarians: ( )**

**a.** Provide direct supervision for all procedures pertaining to the practice of veterinary medicine with the exception of: ( )

**i.** Routine procedures in the practice of veterinary technology performed under indirect supervision of the veterinarian. ( )

**ii.** Previously prescribed medications and vaccines, administered, dispensed, and delivered under the indirect supervision of the veterinarian. This does not include injectable controlled substances, injectable tranquilizers, injectable sedatives, and injectable or inhalant anesthetics, which may only be administered under the direct supervision of the veterinarian. ( )

**iii.** Emergency situations in which the veterinarian, while en route to the location of the distressed animal, may prescribe treatment and delegate appropriate procedures. ( )

**b.** Examines the patient prior to the delegation of any animal health care task. The examination shall be conducted at such times as acceptable veterinary medical practice dictates, consistent with the particular delegated animal health care task. ( )

**c.** May delegate to a certified veterinary technician under direct supervision to perform tooth extraction procedures. ( )

**02. Veterinarian/Client/Patient Relationship.** A veterinarian shall establish a valid veterinarian/client/patient relationship. Such relationship will exist when: ( )

**a.** The veterinarian has assumed the responsibility for making medical judgements regarding the health of the animal and the need for medical treatment. ( )

**b.** There is sufficient knowledge of the animal by the veterinarian to initiate at least a general or preliminary diagnosis of the medical condition of the animal, either by virtue of an examination of the animal, or by medically appropriate visits to the premises where the animals are maintained within a minimum of the last twelve (12) months. ( )

**03. Record Keeping.** Every veterinarian shall maintain detailed daily medical records. Medical records shall include, at a minimum: the name, address, and phone number of the animal's owner or other caretaker; the name and description, sex (if readily determinable), breed, and age of the animal, or description of the group; dates (beginning and ending of custody of the animal; a short history of the animal's condition as it pertains to the animal's condition and diagnosis suspected; all medications, treatments, prescriptions, or prophylaxis given, including amount, frequency, and route of administration for both inpatient and outpatient care; diagnostic and laboratory tests or techniques utilized, and results of each; written documented evidence of continuous monitoring of all anesthetized animals. Records shall be readily retrievable to be inspected, duplicated, or submitted when requested by the Board. All records shall be safeguarded against loss, defacement, tampering, and use by unauthorized personnel. If changes are made to any records the records must clearly reflect what the change is, who made the change, when the change was made, and why. Records shall be maintained for a period of three (3) years following the last treatment or examination. Patient medical records shall be maintained for every animal accepted and treated as an individual patient by a veterinarian, or for every animal group (for example, herd, litter, and flock) treated by a veterinarian. ( )

**04. Preservation of Patient's Body.** Where possible preserve for twenty-four (24) hours the body of any patient that dies while in the veterinarian's care until the owner can be contacted, except as otherwise provided by law. The time of contact or attempted contact with the owner shall be documented in the medical record. The veterinarian is allowed to use the usual manner of disposal if the owner has not made pick-up arrangements within twenty-four (24) hours of the documented contact time. ( )

**05. Consent for Treatment or Transporting.** A veterinarian shall obtain written consent from a patient's owner or other caretaker before treating or transporting a patient to another facility for veterinary medical care or any other reason, unless circumstances qualifying as an emergency do not permit obtaining such consent. ( )

**06. Refusal to Render Services.** A veterinarian has the right to refuse to render veterinary medical services for any reason, or refuse an owner's request to euthanize a healthy or treatable animal. ( )

**07. Immunization.** When the primary objective is to protect the patient's health and a professionally acceptable immunization procedure is being sought, an examination is required, unless the animal has been examined within the twelve (12) months, except in the practice of large animal medicine where mass immunizations of animal herds is involved or when immunization is performed by the patient's owner. ( )

**08. Procurement And Administration Of Euthanasia Drugs.** In order for a certified euthanasia agency to obtain approved drugs for euthanizing animals and a certified euthanasia technician to administer such drugs: ( )

**a.** A certified euthanasia agency (CEA) shall appoint a person who will be responsible for ordering the approved drugs and who shall submit an application for the agency's registration to the Drug Enforcement Agency (DEA). The CEA shall also designate a certified euthanasia technician (CET) who will be responsible for the security of the agency's approved drugs. ( )

**b.** Each CET employed by the agency shall apply for a controlled substance registration from the Idaho Board of Pharmacy under their individual name and using the CEA's DEA registration number. ( )

**09. Ownership of Medical Records.** Medical records including diagnostic images are the personal property of the hospital or the proprietor of the practice that prepares them. Other veterinarians, including those providing subsequent health needs for a patient, and the patient's owner may receive a copy of the patient's medical record, upon the request of the patient's owner or other caretaker. A diagnostic image shall be released upon the request of another veterinarian who has the authorization of the owner of the animal or to the Board. Records shall be supplied within three (3) business days, counting the day of the request if a business day and shall be returned within a reasonable time to the veterinarian who originally ordered them prepared. ( )

**201. -- 299. (RESERVED)**

**300. DISCIPLINE.**

**01. Grounds For Discipline Of Veterinary Technicians.** The Board may take administrative action or other discipline against certified veterinary technicians, certified euthanasia agencies, or certified euthanasia technicians for any action that would otherwise constitute grounds for discipline for a veterinarian under any applicable provision under Section 54-2115, Idaho Code, or Section 54-2118, Idaho Code. ( )

**301. -- 399. (RESERVED)**

**400. FEE SCHEDULE.**

**01. Fees Are As Follows:**

	<b>New</b>	<b>Active Renewal</b>	<b>Inactive Renewal</b>	<b>Late/ Reinstatement</b>	<b>Inactive to Active Fee</b>
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				

( )

**401. -- 999. (RESERVED)**

[Agency redlined courtesy copy]

**24.38.01 – RULES OF THE STATE OF IDAHO BOARD OF VETERINARY MEDICINE**

**000. LEGAL AUTHORITY.**

This chapter is adopted under the legal authority of Title 54, Chapter 21, Idaho Code.( )

**001. SCOPE.**

The rules govern the licensing procedures, supervision requirements, standards of practice, inspections, and grounds



for discipline of veterinarians, veterinary technicians, Committee on Humane Euthanasia members, and certified euthanasia technicians and agencies.( )

~~002. -- 004.(RESERVED)~~

~~005~~**0302.INCORPORATION BY REFERENCE.**

The most current and updated Principles of Veterinary Medical Ethics of the American Veterinary Medical Association (AVMA), as adopted and revised April 2016, is incorporated herein by reference in accordance with the provisions of Section 67-5229, Idaho Code.( )

~~006. -- 008.(RESERVED)~~

**009 02. Foreign Veterinary Graduate.**

~~Any graduate of a veterinary school, college or university outside that fulfills the current requirements for foreign veterinary graduates as set forth by the Educational Commission for Foreign Veterinary Graduates or the American Association of Veterinary State Boards. A graduate enrolled in the foreign graduate program would be considered a student as defined by Section 54 2104(2)(b), Idaho Code.( )~~

~~01. Any graduate of an unaccredited veterinary school who has completed a curriculum of not less than four (4) academic years in a veterinary medical program approved by the Board and satisfactorily completed clinical education equivalent in purpose, content, experience and length to the clinical training received by students in an accredited veterinary medical program. Such clinical education needs to have been obtained pursuant to a formal affiliation agreement between the unaccredited veterinary school and an accredited veterinary medical program. Qualified graduates applying for licensure under Subparagraph 010.01.b.i. of these rules may be issued a probationary license to practice veterinary medicine under the professional supervision of an actively licensed Idaho veterinarian. The probationary license may be renewed for up to three (3) years by paying the current active license renewal fee established by Section 011 of these rules, provided that during this three (3)-year period, the applicant has applied to complete the evaluated clinical experience requirements of the ECFVG program. The evaluated clinical experience requirements of the ECFVG program require that the applicant, following graduation from an unaccredited veterinary medical program, has successfully passed the Clinical Proficiency Examination (CPE) approved by the ECFVG.( )~~

~~02. At the end of the three (3)-year period, the Board will review the probationary license and determine whether to issue or deny a full license based on the candidate's status in the foreign graduate program. The Board may issue a license to applicants who are graduates of nonaccredited foreign colleges of veterinary medicine who possess a certificate issued by the American Veterinary Medical Association Educational Commission for Foreign Veterinary Graduates (ECFVG) or a certificate issued by the Program for the Assessment of Veterinary Education Equivalence (PAVE) as administered by the American Association of Veterinary State Boards (AAVSB). ( )~~

**010. CHANGE OF ADDRESS.**

~~It is the responsibility of each licensed veterinarian and certified veterinary technician to notify the Board office of any change of address.( )~~

**100. LICENSURE.**

~~011~~**400. FEE SCHEDULE.**

The Board may pro-rate application fees to accommodate a shortened licensure or certification period before the applicant's first June renewal Fees are as follows:( )

**01. Fee Schedule.**

	<b>New</b>	<b>Active Renewal</b>	<b>Inactive Renewal</b>	<b>Late/ Reinstatement</b>	<b>Inactive to Active Fee</b>
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	-
<u>Duplicate Wall License/Certificate</u>	<u>\$25</u>	=	=	=	=
<u>Veterinary License Verification</u>	<u>\$20</u>	=	=	=	=

( )

**02. Administrative Services.**

<u>Duplicate Wall License/Certificate</u>	<u>\$25</u>
<u>Veterinary License Verification</u>	<u>\$20</u>

( )

**01205. Continuing Education.**

A veterinarian and certified veterinary technician renewing a license shall report fifteen (15) hours of completed continuing education to the Board. ( )

**013. 099.(RESERVED)**

**100 01. Certification Of Veterinary Technicians.**

**01a.** Certificate Required. Any person representing themselves as a veterinary technician, licensed veterinary technician, registered veterinary technician, or certified veterinary technician, shall hold a valid, unexpired certificate to practice veterinary technology in Idaho. ( )

**02b.** Application for Certification ~~Contents Examinations~~. An individual desiring to be certified as a veterinary technician shall make written application, available online, to the Board upon a form furnished by the Board. A complete application is valid for a period of one (1) year, contain the applicant's notarized signature, and include: ( )

**a.** ~~A copy of a birth certificate or current passport proving that the applicant is eighteen (18) years of age or older.~~ ( )

**b.** Documentation of education/training/experience as follows: ( )

**i.** ~~A certified copy of a diploma or transcript, or a letter verifying graduation from a veterinary technology program, accredited by the American Veterinary Medical Association;~~ ( )

**ii.** ~~A certified copy of a diploma or transcript, or a letter verifying the award of a D.V.M. or V.M.D. degree or equivalent, from an accredited school of veterinary medicine; or~~ ( )

**iii.** ~~If a foreign veterinary graduate, a letter from the Educational Commission for Foreign Veterinary Graduates (ECFVG) certifying completion of the ECFVG program or a copy of the ECFVG certificate.~~ ( )

**e.** ~~Verification of a criterion-referenced passing score reported by the Professional Examination~~

~~Service or its designee, or by other designated test vendors or their designees approved by the American Association of Veterinary State Boards on the Veterinary Technician National Examination (VTNE) or other national examination approved by the American Association of Veterinary State Boards or its designated test vendor or by the Board. If such a score is not available, the passing score shall be as reported by the Professional Examination Service or its designee, or by other designated test vendors or their designees approved by the American Association of Veterinary State Boards or by the Board and shall be considered equal to or greater than one and five-tenths (1.5) standard deviation below the mean score of the examination.(—)~~

~~i. The VTNE or other national examination approved by the American Association of Veterinary State Boards or its designated test vendor or by the Board may have been taken at any time.(—)~~

~~ii. Scores for the VTNE or other national examination approved by the American Association of Veterinary State Boards or its designated test vendor or by the Board are to be provided to the Board by the Professional Examination Service or its designee or by other designated test vendors or their designees approved by the American Association of Veterinary State Boards.(—)~~

~~d. A passing score for the jurisprudence examination, which should be ninety percent (90%) or such score as deemed appropriate by the Board. The jurisprudence examination, as prepared by the Board or its designee, may be taken more than once.(—)~~

~~e. A completed application, other required documents, and first year's certification fee in the amount established by the Board shall be received at the Board office by the first day of January or June. All application and certification fees are nonrefundable.(—)~~

~~101.—102.(Reserved)~~

**103. 01. Supervising Veterinarians:;**

~~01. **Statement of Purpose.** Veterinarians licensed under the provisions of Title 54, Chapter 21, Idaho Code, are responsible for all certified euthanasia technicians, certified veterinary technicians, veterinary assistants, or any others to whom they delegate the performance of acts pertaining to the practice of veterinary medicine.(—)~~

~~02. **A Supervising Veterinarian Shall:(—)**~~

~~a. Provide direct supervision for all procedures pertaining to the practice of veterinary medicine **that are delegated to a certified veterinary technician, an assistant, or any others** with the exception of:( )~~

~~i. Routine procedures in the practice of veterinary technology **that include, but are not limited to, taking radiographs, weight and temperature, or as determined by the standard of practice for the area.** These routine procedures may be performed under **the** indirect supervision of the veterinarian.( )~~

~~ii. Previously prescribed **antibiotics and medications and vaccines, which may be** administered, dispensed, and delivered under the indirect supervision of the veterinarian. **Previously prescribed antibiotics and medications** This does not include injectable controlled substances, injectable tranquilizers, injectable sedatives, and injectable or inhalant anesthetics, which may only be administered under the direct supervision of the veterinarian.( )~~

~~iii. Emergency situations. **In these situations, in order to stabilize the animal, in which** the veterinarian, while en route to the location of the distressed animal, may prescribe treatment and delegate appropriate procedures **pertaining to the practice of veterinary medicine under indirect supervision.** ( )~~

~~b. Be available to supervise and direct all procedures pertaining to the practice of veterinary medicine **that are delegated to others.**(—)~~

~~e. Bear legal responsibility for the health, safety and welfare of the animal patient **that the certified veterinary technician, assistant, or any others serves.**(—)~~

- ~~d.~~ Not delegate an animal health care task to an unqualified individual.(—)
- ~~e.~~ Make all decisions relating to the diagnosis, treatment, management, and future disposition of an animal patient. (—)
- ~~f.~~ ~~Have Examined~~ the animal patient prior to the delegation of any animal health care task ~~to a certified veterinary technician, or assistant.~~ The examination ~~of the animal patient~~ shall be conducted at such times as acceptable veterinary medical practice dictates, consistent with the particular delegated animal health care task.  
( )

~~g.~~ ~~Diagnose and perform operative dentistry, oral surgery, and teeth extraction procedures~~May delegate to a certified veterinary technician under direct supervision to perform tooth extraction procedures. Operative dentistry and oral surgery are considered to be any dental procedure which invades the hard or soft oral tissue including, but not limited to, a procedure that alters the structure of one (1) or more teeth or repairs damaged and diseased teeth, or the deliberate extraction of one (1) or more teeth. Operative dentistry and oral surgery do not include, removal of calculus, soft deposits, plaque, stains, floating to shape the teeth, or smoothing, filing or polishing of tooth surfaces above the gum line.(—)

~~03. Limitations on Supervising Veterinarians.~~ A supervising veterinarian shall not authorize a certified veterinary technician, an assistant, or anyone else, other than a licensed veterinarian to perform surgery, diagnosis, prognosis, prescribing, or operative dentistry/oral surgery.(—)

**104**

**300. DISCIPLINE.**

**01. Grounds For Discipline Of Veterinary Technicians.**  
In addition to the provisions of Section 54-2118, Idaho Code, ~~T~~the Board may refuse to issue, renew, or reinstate the certification of a veterinary technician, or may deny, revoke, suspend, sanction, place on probation, or require voluntary surrender of the certification of a veterinary technician, or may impose other forms of discipline, ~~take administrative action or other discipline against certified veterinary technicians, certified euthanasia agencies, or certified euthanasia technicians for any action that would otherwise constitute grounds for discipline for a veterinarian under any applicable provision under Section 54-2115, Idaho Code, or Section 54-2118, Idaho Code, and enter into consent agreements and negotiated settlements with certified veterinary technicians pursuant to the procedures set forth in Title 67, Chapter 52, Idaho Code, for provisions of Section 54-2115, Idaho Code, any of the following reasons:(—)~~

~~01. Unethical or Unprofessional Conduct.~~ Unethical or unprofessional conduct is conduct that includes, but is not limited to, any of the following:(—)

~~a.~~ Providing any procedure to an animal that constitutes the practice of veterinary medicine or veterinary technology and which has not been delegated by the supervising veterinarian, except in the case of an emergency as defined by Section 54-2103(16), Idaho Code;(—)

~~b.~~ Practicing veterinary technology in a manner that endangers the health and welfare of the patient or the public. A certified veterinary technician shall not practice veterinary technology if their ability to practice with reasonable skill and safety is adversely affected by reason of illness, excessive use of alcohol, drugs, narcotics, chemicals, or any other substance, or as a result of any mental or physical disability;(—)

~~e.~~ Gross ignorance, incompetence or inefficiency in the practice of veterinary technology as determined by, but not limited to, the practices generally and currently followed and accepted by persons certified to practice veterinary technology in Idaho and the current teaching at accredited programs in veterinary technology;  
(—)

~~d.~~ Intentionally performing a duty, task, or procedure in the field of veterinary technology for which the individual is not qualified; or(—)

~~e.~~ Engaging in conduct of a character likely to deceive or defraud the public.(—)

~~02. **Conviction of a Charge or Crime.** Being found guilty, convicted, placed on probation, having entered a guilty plea that is accepted by the court, forfeiture of bail, bond or collateral deposited to secure a defendant's appearance, or having received a withheld judgment or suspended sentence by a court of competent jurisdiction in Idaho or any other state of one (1) or more of the following:(—)~~

~~a. Any felony, as defined by Title 18, Chapter 1, Idaho Code; or(—)~~

~~b. Any other criminal act that in any way is related to the practice of veterinary technology as defined by Section 54-2103(47), Idaho Code.(—)~~

~~03. **Medical Incompetence.** Medical incompetence in the practice of veterinary technology, which means lacking in sufficient medical knowledge or skills or both to a degree likely to endanger the health of patients.(—)~~

~~04. **Physical or Mental Incompetence.** Physical or mental incompetence, which means the individual's ability to practice veterinary technology with reasonable skill and safety is impaired by reason of illness, excessive use of alcohol, drugs, narcotics, chemicals or any other substance, or as a result of any physical or mental disability.(—)~~

~~05. **Malpractice or Negligence.** Malpractice or negligence, in the practice of veterinary technology, which includes, but is not limited to:(—)~~

~~a. Treatment in a manner contrary to accepted practices in veterinary technology and with injurious results;(—)~~

~~b. Any professional misconduct or unreasonable lack of professional skill or fidelity in the performance of an act that is part of the practice of veterinary technology;(—)~~

~~c. Performance of an act that is part of the practice of veterinary technology without adequate supervision, except in the case of an emergency as defined by Section 54-2103(16), Idaho Code; or(—)~~

~~d. The negligent practice of veterinary technology, as determined by the standard of practice for the area, that results in injury, unnecessary suffering or death.(—)~~

~~06. **Cruelty to Animals.** Cruelty to animals, including, but not limited to, the intentional and malicious infliction of pain, physical suffering, injury or death, performance of experimental treatments without the owner's consent, deprivation of necessary sustenance, withholding of appropriate pain medications or levels of pain medications, or the administration of unnecessary procedures and treatment. Infliction of pain on any animal in self-defense, or to prevent physical harm to others, or in accordance with local custom and culture in moving, handling, treating, dehorning, castrating or performing other procedures on livestock, shall not be considered cruel or physically abusive unless done in an unnecessary or intentionally malicious manner. This provision does not alter Section 25-3514, Idaho Code.(—)~~

~~07. **Revocation, Suspension, Limitation or Subjection.** The revocation, suspension, limitation, or subjection of a license, certificate or registration or any other disciplinary action by another state or U.S. jurisdiction or voluntary surrender of a license, certificate or registration by virtue of which one is licensed, certified or registered to practice veterinary technology in that state or jurisdiction on grounds other than nonpayment of the renewal fee.( )~~

~~08. **Continuing Education.** Failure to comply with the continuing education requirements outlined by Board rules.(—)~~

~~09. **Failure to Cooperate.**(—)~~

~~a. Failure of any applicant or certificate holder to cooperate with the Board during any investigation, even if such investigation does not personally concern the applicant or certificate holder.(—)~~

~~b.~~ Failure to comply with the terms of any order, negotiated settlement or probationary agreement of the Board. ( )

~~e.~~ Failure to comply with the terms for certification renewal or to timely pay certification renewal fees as specified by Section 010 of these rules. ( )

~~10. Violation of Law, Rules or Order.~~ Violating or attempting to violate, directly or indirectly, or assisting or abetting the violation or conspiracy to violate any of the provisions of the veterinary law or rules or a written order of the Board issued pursuant to Title 54, Chapter 21, Idaho Code. ( )

~~105.—149.(RESERVED)~~

**150 02. VALID Veterinarian/Client/Patient Relationship.**

An veterinarian shall establish a valid appropriate veterinarian/client/patient relationship. Such relationship will exist when: ( )

~~01a. Responsibility.~~ The veterinarian has assumed the responsibility for making medical judgements regarding the health of the animal and the need for medical treatment, ~~and the client (owner or other caretaker) has followed the instructions of the veterinarian.~~ ( )

~~02b. Medical Knowledge.~~ There is sufficient knowledge of the animal by the veterinarian to initiate at least a general or preliminary diagnosis of the medical condition of the animal. ~~This means that the veterinarian has seen the animal within the last twelve (12) months or is personally acquainted with the keeping and care of the animal,~~ either by virtue of an examination of the animal, or by medically appropriate visits to the premises where the animals are maintained within a minimum of the last twelve (12) months. ( )

~~03. Availability.~~ The practicing veterinarian or designate is readily available for follow-up in case of adverse reactions or failure of the regimen of therapy. ( )

~~151. UNPROFESSIONAL CONDUCT.~~

Any violation of the Principles of the Veterinary Medical Ethics of the American Veterinary Medical Association, these rules, Chapter 21, Title 54, Idaho Code, constitutes unprofessional conduct. Unprofessional conduct includes, but is not limited to: ( )

~~01. Unsanitary Methods or Procedures.~~ Failure to apply sanitary methods or procedures in the treatment of any animal, contrary to Board rules. ( )

~~02. Association with Illegal Practitioners.~~ Includes, but is not limited to: ( )

~~a.~~ Having a professional relationship or connection with, lending one's name to, or otherwise aiding and abetting any illegal or unlicensed practice or practitioner of veterinary medicine and the various branches thereof; ( )

~~b.~~ Rendering professional service in association with a person who is not licensed; or ( )

~~e.~~ Sharing fees with any person, except a licensed veterinarian, for services actually performed. ( )

~~03. False Testimony.~~ Swearing falsely in any testimony or affidavits relating to, or in the course of, the practice of veterinary medicine, surgery or dentistry. ( )

~~04. Gross Ignorance, Incompetence or Inefficiency.~~ In determining gross ignorance, incompetence or inefficiency in the profession, the Board may take into account all relevant factors and practices including, but not limited to, the practices generally and currently followed and accepted by the persons licensed to practice veterinary medicine in Idaho, the current teaching at accredited veterinary schools, relevant technical reports published in recognized veterinary medical journals, and the desirability of reasonable experimentation in the furtherance of the

art of veterinary medicine.(—)

**05. Improper Supervision.** Includes, but is not limited to:(—)

**a.** Permitting, allowing, causing or directing any individual to perform a duty, task or procedure that they are not qualified to perform.(—)

**b.** Providing, permitting, allowing, causing or directing any individual to perform inadequate anesthetic monitoring. Evidence of this monitoring shall be documented in written form and contained within the medical record. (—)

**06. Association with Others.** Accepting fees from the providers of animal services or products when referring clients to such providers.(—)

**152. CODE OF PROFESSIONAL CONDUCT.**

The Board's code of professional conduct includes, but is not limited to, the following standards of conduct. A veterinarian shall:(—)

**01. Veterinarian/Client/Patient Relationship.** Not dispense or prescribe controlled substances, prescription or legend drugs except in the course of their professional practice and after a bona fide veterinarian/client/patient relationship as defined by Section 150 of these rules has been established.(—)

**02. Health Certificate.** Not issue a certificate of health unless they have personal knowledge by means of actual examination and appropriate testing of the animal that the animal meets the requirements for issuance of such a certificate.(—)

**03. DEA and Controlled Substance Registration.** Notify the Board of the suspension, revocation, or voluntary surrender of their federal Drug Enforcement Administration (DEA) registration and their state controlled substance registration.(—)

**04. Ability to Practice.** Not practice veterinary medicine as to endanger the health and welfare of their patients or the public. A veterinarian shall not practice veterinary medicine if their ability to practice with reasonable skill and safety is adversely affected by reason of illness, excessive use of alcohol, drugs, narcotics, chemicals, or any other substance or as a result of any mental or physical disability.(—)

**05. Conflicting Interests.** Not represent conflicting interests except by the express consent of all the parties after full disclosure of all the facts. A conflict of interest includes, but not be limited to, accepting a fee from a buyer to inspect an animal for soundness and accepting a fee from the seller.(—)

**06. Confidentiality.** Maintain a confidential relationship with their clients, except as otherwise provided by law or required by considerations related to public health and animal health.(—)

**a.** The information contained in veterinary medical records is considered confidential. It is unethical for a veterinarian to release this information except by court order or consent of the patient's owner or other caretaker at the time treatment was rendered.(—)

**b.** Without express permission of the practice owner, it is unethical for a veterinarian or certified veterinary technician to remove, copy, or use the medical records or any part of any record belonging to the practice or its owner for any purpose other than the business of the practice.(—)

**07. Physical Abuse Patient.** Not physically abuse a patient or fail to conform to the currently accepted standards of care in the veterinary profession for any animal under their care.(—)

**0804. Preservation of Patient's Body.** Where possible preserve for twenty-four (24) hours the body of any patient that dies while in the veterinarian's care until the owner can be contacted, except as otherwise provided by law. The time of contact or attempted contact with the owner shall be documented in the medical record. The veterinarian is allowed to use the usual manner of disposal if the owner has not made pick-up arrangements within

twenty-four (24) hours of the documented contact time.( )

~~0905.~~ **Consent for Treatment or Transporting.** A veterinarian shall obtain written consent from a patient's owner or other caretaker before treating or transporting a patient to another facility for veterinary medical care or any other reason, unless circumstances qualifying as an emergency do not permit obtaining such consent.( )

~~1006.~~ **Refusal to Render Services.** A veterinarian has Have the right to refuse to render veterinary medical services for any reason, or refuse an owner's request to euthanize a healthy or treatable animal.( )

~~153200.~~ **STANDARDS OF PRACTICE STANDARDS.**

~~Veterinarians shall adhere to the standards of practice including, but not limited to:( )~~

~~01. Practice Procedures.~~ A licensed veterinarian shall exercise at least the same degree of care, skill, and diligence in treating patients that is ordinarily used in the same or similar circumstances by members of the veterinary medical profession of similar training and experience in the community in which he practices.( )

~~0207. Immunization.~~ When the primary objective is to protect the patient's health and a professionally acceptable immunization procedure is being sought, an examination of the animal by the veterinarian is required prior to each and every immunization procedure, unless the animal has been examined within the last ninety (90) days twelve (12) months, except in the practice of large animal medicine where mass immunizations of animal herds is involved or when immunization is performed by the patient's owner. For the purpose of this subsection, the definition of "owner" in addition to ownership as defined by the laws of the ownership of property, non-profit organizations dedicated to the care and treatment of animals is considered the owners of animals in their custody if such organizations are the primary care giver for the animal or if the true owner of such animal cannot be immediately determined.( )

~~03. Relationship.~~ A veterinarian shall establish a valid veterinarian/client/patient relationship prior to dispensing, using, prescribing, or selling any controlled substance or legend drug, or the prescribing of an extra-label use of any drug. ( )

~~04. Dispense and Distribute in Good Faith.~~ A veterinarian dispensing or distributing any drug or medicine will dispense or distribute such drug or medicine in good faith, within the context of a valid veterinarian/client/patient relationship and will, except in the case of any drugs and medicines that are in containers that bear a label of the manufacturer with information describing their contents and that are labeled indicating:( )

- ~~a.~~ The date on which such drug is dispensed;( )
- ~~b.~~ The name of the owner and patient;( )
- ~~c.~~ The name or initials of the person dispensing such drug;( )
- ~~d.~~ Directions for use, including dosage and quantity; and( )
- ~~e.~~ The proprietary or generic name of the drug.( )

~~05. Anesthesia Standards.~~ All anesthetized animals shall be appropriately monitored and under supervision. ( )

~~154 03.~~ **Record Keeping STANDARDS.**

Every veterinarian shall maintain detailed daily medical records of the animals treated. Medical records shall include, at a minimum: the name, address, and phone number of the animal's owner or other caretaker; the name and description, sex (if readily determinable), breed, and age of the animal, or description of the group; dates (beginning and ending of custody of the animal; a short history of the animal's condition as it pertains to the animal's condition and diagnosis suspected; all medications, treatments, prescriptions, or prophylaxis given, including amount, frequency, and route of administration for both inpatient and outpatient care; diagnostic and laboratory tests or techniques utilized, and results of each; written documented evidence of continuous monitoring of all anesthetized



animals. Records shall be readily retrievable to be inspected, duplicated, or submitted when requested by the Board. All records shall be safeguarded against loss, defacement, tampering, and use by unauthorized personnel. If changes are made to any records the records must clearly reflect what the change is, who made the change, when the change was made, and why. Records shall be maintained for a period of three (3) years following the last treatment or examination. Patient medical records shall be maintained for every animal accepted and treated as an individual patient by a veterinarian, or for every animal group (for example, herd, litter, and flock) treated by a veterinarian.( )

- ~~01. **Medical Records.** Medical records shall include, but not be limited to:( )~~
  - ~~a. Name, address and phone number of the animal's owner or other caretaker.( )~~
  - ~~b. Name and description, sex (if readily determinable), breed and age of animal; or description of group.( )~~
  - ~~c. Dates (beginning and ending) of custody of the animal.( )~~
  - ~~d. A short history of the animal's condition as it pertains to the animal's medical status.( )~~
  - ~~e. Results and notation of each examination, including the animal's condition and diagnosis suspected.( )~~
  - ~~f. All medications, treatments, prescriptions or prophylaxis given, including amount, frequency, and route of administration for both inpatient and outpatient care.( )~~
  - ~~g. Diagnostic and laboratory tests or techniques utilized, and results of each.( )~~
  - ~~h. All anesthetized animals shall be appropriately monitored and under supervision at all times. Evidence of this monitoring shall be documented in writing in the medical record.( )~~

~~02. **Consent Forms.** Consent forms, signed by the patient's owner or other legal caretaker for each surgical or anesthesia procedure requiring hospitalization or euthanasia, shall be obtained, except in emergency situations, for each animal and be maintained on file with the practitioner.( )~~

~~03. **Postoperative Instructions.** Postoperative home care instructions shall be provided in writing and be noted in the medical record.( )~~

~~04. **Treatment Records.** Veterinarians who practice with other veterinarians shall indicate by recognizable means on each patient's or animal group's medical record any treatment the veterinarian personally performed and which treatments and procedures were delegated to a technician or assistant to perform. The patient's record must also include a notation indicating when the animal was handed off to another veterinarian or a treatment or procedure delegated to a technician or assistant along with a summary of the animal's condition and diagnosis at the time of the hand-off.( )~~

**0509. Ownership of Medical Records.** Medical records including diagnostic images are the personal property of the hospital or the proprietor of the practice that prepares them. Other veterinarians, including those providing subsequent health needs for a patient, and the patient's owner may receive a copy of the patient's medical record, upon the request of the patient's owner or other caretaker. A diagnostic image shall be released upon the request of another veterinarian who has the authorization of the owner of the animal or to the Board. Records shall be supplied within three (3) business days, counting the day of the request if a business day and shall be returned within a reasonable time to the veterinarian who originally ordered them prepared.( )

~~06. **Diagnostic Image Identification and Ownership.** All diagnostic images shall be labeled in the emulsion film or digitally imprinted to identify the veterinarian or premise, the patient, the owner, the date, and anatomical orientation. A diagnostic image is the physical property of the hospital or the proprietor of the practice that prepares it, and it shall be released upon the request of another veterinarian who has the authorization of the owner of the animal to whom it pertains or to the Board. Such diagnostic images shall be returned within a reasonable~~

time to the veterinarian who originally ordered them to be prepared. ( )

- 07. Estimates.** A veterinarian shall make available to each client a written estimate on request.  
( )

155. — 199. (Reserved)

**200. COMMITTEE ON HUMANE EUTHANASIA:**

Pursuant to Section 54-2105(8), Idaho Code, a Committee on Humane Euthanasia (COHE) is established and consists of no fewer than five (5) members appointed by the Board. At its discretion, the Board may appoint itself as the COHE. New members will be nominated by either the Board or the COHE and be confirmed by the Board. Applicants for a COHE position shall be certified euthanasia technicians (CETs) and employed by a certified euthanasia agency or be a veterinarian ( )

**01. Term.** Each member may serve for three (3) years, at the pleasure of the Board. A COHE member may be eligible for reappointment. If there is a vacancy for any cause, the COHE or the Board shall nominate and confirm a successor to fill the unexpired term. ( )

- 02. Duties.** The duties of COHE members include, but are not limited to, the following: ( )

- a.** Coordinate and provide euthanasia training classes as needed. ( )
- b.** Inspect and certify agencies. ( )
- c.** Review the applications, records, performance, methods and procedures used by agencies and persons seeking to be certified or to renew their certification as a Certified Euthanasia Agency (CEA) or Certified Euthanasia Technician (CET). ( )
- d.** Conduct written and practical examinations for applicants applying for certification and authorize certification through the Board. ( )
- e.** Recommend suspension or revocation of a certification when necessary. ( )

**201. METHODS OF EUTHANASIA AND PRE-EUTHANASIA SEDATION:**

Methods approved by the COHE and used for the purpose of humanely euthanizing and sedating sick, homeless, or unwanted pets and animals: ( )

**01. Euthanasia Drugs.** Any Schedule II non-narcotic or Schedule III non-narcotic euthanasia drug covered by the Controlled Substances Act that has first been approved in writing by the COHE and the Board. A list of approved euthanasia drugs is on file at the Board office. ( )

**02. Pre-Euthanasia Sedation Drugs.** Any Schedule III or Schedule IV narcotic or non-narcotic controlled substance as defined by the Controlled Substances Act, or other legend drugs that have been approved for use by CEAs or CETs at a CEA facility. Such pre-euthanasia sedation drugs shall be limited to those approved in writing by the COHE and the Board. A list of approved pre-euthanasia sedation drugs is on file at the Board office.  
( )

**202 08. Procurement And Administration Of Approved Euthanasia Drugs.**

In order for a certified euthanasia agency to obtain approved drugs for euthanizing animals and a certified euthanasia technician to administer such drugs, the following procedure shall be followed: ( )

**01a. DEA Registration.** A certified euthanasia agency (CEA) shall appoint a person who will be responsible for ordering the approved drugs and who shall submit an application for the agency's registration as a Euthanasia Agency Practitioner A.S. to the Drug Enforcement Agency (DEA). The CEA shall also designate a certified euthanasia technician (CET) who will be responsible for the security of the agency's approved drugs.  
( )

~~02b. **Controlled Substance Registration.** Each CET employed by the agency shall apply for a controlled substance registration from the Idaho Board of Pharmacy under their individual name and using the CEA's DEA registration number.( )~~

~~03. **Purchase of Approved Drugs.** After the certified euthanasia agency has received a DEA registration number and the CETs at that agency have received their Idaho Board of Pharmacy controlled substance registrations, the designated individual for the agency may on behalf of the agency purchase approved drugs for storage at the CEA location. Approved drugs shall only be obtained from a drug wholesaler.( )~~

~~04. **Administration of Approved Drugs.** Certified euthanasia technicians employed by certified euthanasia agencies and registered with the Idaho Board of Pharmacy may perform euthanasia by the administration of approved drugs.( )~~

203. (Reserved)

**204 03. Certified Euthanasia Agency.**

A certified euthanasia agency is a law enforcement agency, an animal control agency, a humane society, or an animal shelter that has been inspected and certified by the COHE or the Board, Section 54-2103(8), Idaho Code. In order to be certified to purchase and store approved drugs, certified euthanasia agencies shall be inspected by the ~~COHE or the Board~~ in accordance with the standards promulgated by the Committee on Humane Euthanasia and approved by the Board. The approved standards will be made available online to the public, and shall meet the following criteria:( )

~~01. **Approved Drugs.**( )~~

~~a. Each agency will maintain a current written list of CET(s).( )~~

~~b. Access to the approved drugs in a locked drug storage cabinet will be limited to licensed veterinary supervisors and assigned CET. Such persons will be responsible for the security of the approved drugs and allow withdrawal of the approved drugs only to a person certified by the Board and registered with the Idaho Board of Pharmacy to administer such drugs.( )~~

~~c. All approved drugs shall be prepared according to the manufacturer's instructions.( )~~

~~d. Needles and syringes will be of medical quality and will not be reused.( )~~

~~02. **Proper Labeling.** Upon removal from the shipment carton, each individual container of an approved drug will be labeled with the drug name and strength, the date the drug was prepared, a drug hazard warning label and the name and address of the agency owning the drug.( )~~

~~03. **Temporary Storage.** When a CET is on duty and when animals are being euthanized throughout the workday, approved drugs may be kept in a temporary locked drug storage cabinet. The key to this cabinet shall be secured by a licensed veterinary supervisor or the lead CET designated on the DEA controlled substance registration, and made available to the CET(s) performing euthanasia that day.( )~~

~~04. **Record Keeping.** Proper record keeping of approved drugs shall include the following:( )~~

~~a. Shipment records showing receipt of the approved drugs shall be maintained and include all information required by federal law, the date the shipment was received, the amount, the source, and the invoice number.( )~~

~~b. Administration records showing the date an approved drug was:( )~~

~~i. Administered;( )~~

~~ii. Weight and species of animal;( )~~

- ~~iii. Dosage of each drug administered for pre-ethanasia sedation, euthanasia, and remote chemical capture restraint; (——)~~
- ~~iv. Identification of the person who dispensed the approved drugs; and, if applicable; (——)~~
- ~~v. Identification of the veterinarian or CET who supervised the dispensing shall be maintained. (——)~~
- ~~e. Records of wastage shall be maintained and signed by the CET administering the approved drug and the CET responsible for security. (——)~~
- ~~d. A weekly record of the approved drugs on hand, minus the amounts withdrawn for administration, signed by the CET responsible for security. (——)~~
- ~~e. Disposal records of any expired or unwanted approved drugs shall be maintained. (——)~~
- ~~f. All records shall be filed in chronological order in a binder that is labeled with the name of the agency and be kept for a period of three (3) years. (——)~~
- ~~05. **Proper Sanitation.** The euthanasia area shall be clean and regularly disinfected. (——)~~
- ~~06. **Other Site Conditions.** (——)~~
- ~~a. Each agency shall have a specific area designated for euthanasia that is a separate room or area that is not used for any other purpose while animals are being euthanized. (——)~~
- ~~b. The euthanasia area shall have a table or other work area where animals can be handled, and a cabinet, table or work bench where the drugs, needles, syringes and clippers can be placed. (——)~~
- ~~e. The following items and materials shall either be kept in the euthanasia area or brought to the area each time an animal is euthanized: (——)~~
  - ~~i. A first aid kit that meets minimum first aid supply standards; (——)~~
  - ~~ii. One (1) or more tourniquets; (——)~~
  - ~~iii. Standard electric clippers with No. 40 blade; (——)~~
  - ~~iv. Animal control stick for dogs and animal net for cats (if the agency handles cats); (——)~~
  - ~~v. Stethoscope; (——)~~
  - ~~vi. Disinfectant. (——)~~
  - ~~vii. The current certification cards for the CEA and all CETs working at the CEA, which shall be kept together. The CEA is strongly encouraged to keep all DEA and Idaho Board of Pharmacy registration cards together with the certification cards. (——)~~
- ~~d. All equipment shall be in good working order. (——)~~
- ~~07. **Equipment Stored.** All equipment shall be stored so that it does not create a safety hazard for the personnel. (——)~~
- ~~08. **Certification Renewal.** Certifications may be renewed upon successful completion of a facility inspection by a COHE member, a member of the Board or other individual appointed by the COHE and payment of the annual renewal fee. (——)~~

**205 04. Certified Euthanasia Technician.**

~~01.a.~~ Training and Examinations. Qualifying training courses must be sponsored by or affiliated with a veterinary medicine school accredited by the AVMA or be approved by the Board.~~The COHE or the Board will develop training sessions, materials, and a written examination.(—)~~

~~02. Certification Standards.~~ Applicants for certification as a CET shall be eighteen (18) years of age or older and demonstrate proficiency in compliance with the following standards:(—)

~~a. Demonstrate competency in euthanasia techniques in the presence of a COHE or Board member, or a person approved by the Board:(—)~~

~~i. CETs are fully responsible for all actions that take place in the euthanasia area when an animal is brought to the area including, but not limited to, animal handling, use of the proper restraint technique, the proper drug dosage, and drug handling:(—)~~

~~ii. CETs shall be able to competently perform intravenous injections on dogs and intraperitoneal injections on both dogs and cats. Intravenous injections on cats shall not be required as part of the certification process, but when performed, meet the standards listed in Subparagraph 205.02.a.ii.(1) of these rules. Intracardiac injections on dogs and cats shall not be required as part of the certification process, but when performed, are restricted to the limitations listed in Subparagraph 205.02.a.ii.(3) of these rules.(—)~~

~~(1) Intravenous Injections: The CET shall be able to competently insert the needle into an animal's vein when an animal is injected by this method. A minimum of two (2) people shall be required for any IV injection. One (1) person shall be a CET and one (1) or more people shall be the handler. The handler does not need to be a CET, but the handler should be trained in human safety and animal handling techniques:(—)~~

~~(2) Intraperitoneal Injections: The CET shall be able to competently insert the needle into the proper area of the peritoneal cavity when an animal is injected by this method. It is recommended that animals injected by this method be placed into a cage or carrier with no other animals. The cage or carrier shall be covered with cloth or other material that can keep the injected animal isolated from the normal activities in the euthanasia area. Intraperitoneal injections may be administered by a CET without a handler.(—)~~

~~(3) Intracardiac Injections: Intracardiac injection shall be performed only on an anesthetized animal. CETs shall be able to competently insert the needle into the heart of an anesthetized animal, and intracardiac injections may be administered by a CET without a handler.(—)~~

~~iii. No other euthanasia injection procedures are permitted in any type of animal with the exception of intramuscular and subcutaneous injections for pre-euthanasia sedation:(—)~~

~~iv. Oral administration of approved euthanasia drugs is permitted for any animal that cannot be captured or restrained without serious danger to human safety:(—)~~

~~b. Demonstrate proper record keeping. A record of all approved drugs received and used by the agency shall be kept containing the following information:(—)~~

~~i. A weekly verification of the drug stock on hand, minus the amounts withdrawn for administration, signed by the CET responsible for security:(—)~~

~~ii. An entry of the date that a new bottle of any approved drug is opened and the volume of the bottle, signed by the CET responsible for security:(—)~~

~~iii. The species and approximate weight of each animal administered a drug:(—)~~

~~iv. The amount of the drug that was administered:(—)~~

~~v. The date the drug was administered:(—)~~

- ~~vi. The signature of the CET who administered the drug;(——)~~
- ~~vii. A record of the amount of the drug wasted, if any, signed by the CET administering the drug and the CET responsible for security; and(——)~~
- ~~viii. A record of any disposal of expired or unwanted approved drugs, other chemical agent or the containers, instruments and equipment used in their administration, signed by the CET and disposed of in accordance with the Idaho Board of Pharmacy law and rules and the Code of Federal Regulations.(——)~~
- ~~e. Demonstrate understanding and concern for the needs and humane treatment of individual animals:  
(——)~~
  - ~~i. All animals shall be handled in a manner that minimizes stress to the animal and maximizes the personal safety of the CET and the handler. Each animal shall be handled with the least amount of restraint necessary, but human safety is always the primary concern. Handling includes all aspects of moving an animal from one (1) area to another;(——)~~
  - ~~ii. The use of control sticks and other similar devices shall be limited to fractious or potentially dangerous animals; and(——)~~
  - ~~iii. Animals shall not be placed in cages or kennels with other breeds or species that are incompatible with the animal in question or be overcrowded in a cage or kennel.(——)~~
  - ~~d. Demonstrate ability to verify death. The animal should become unconscious and show terminal signs within sixty (60) minutes of drug administration. If any animal does not show any of these signs within the designated time period, the CET shall re-administer the drug. An animal that has received an approved drug orally may be injected with the same or another approved drug after it has become unconscious. Verification is the responsibility of the CET and shall be made by physical examination of the individual animal. One (1) of the following two (2) standards for death shall be met:(——)~~
    - ~~i. Rigor mortis; or(——)~~
    - ~~ii. Complete lack of heartbeat (as checked with a stethoscope), complete lack of respiration, and complete lack of corneal and palpebral reflexes.(——)~~
- ~~**03. Certification.(——)**~~
  - ~~a. An individual shall not be certified as a CET until such time as he has successfully passed a euthanasia written examination, a practical or clinical examination, and an Idaho euthanasia jurisprudence examination. (——)~~
  - ~~b. The practical examination will test the individual's knowledge and skills in the hands-on application of euthanasia procedures and practices in a clinical setting under the direction of a COHE member, a Board member, or a designee of either the COHE or Board. The Idaho euthanasia jurisprudence examination (which can either be a separate written test or combined with the euthanasia written examination) will be an examination testing the individual's understanding of Idaho laws and Board rules addressing the practice of euthanasia. Both the euthanasia written examination and the euthanasia jurisprudence examination will be developed by the Board, the COHE, or a designee of either the Board or the COHE.(——)~~
  - ~~e. A passing score for the euthanasia written examination is eighty percent (80%), or such other score as deemed appropriate by the Board or the COHE. A passing score for the euthanasia jurisprudence examination is ninety percent (90%), or such other score as deemed appropriate by the Board or the COHE. A failed euthanasia jurisprudence examination may be retaken multiple times upon making arrangements acceptable to the Board.(——)~~

~~d. Initial certification and certification renewal training sessions and examinations will be conducted at least once per year prior to July 1, and at such other times deemed necessary by the COHE, the Board, or a designee of either the COHE or the Board. Upon approval of the Board, a COHE member, or the designee of either the Board or the COHE, an individual may take the euthanasia written examination, the practical examination, and the euthanasia jurisprudence examination in any order.(—)~~

~~e. An individual who has passed the written examination, but has not attended a training session and has not passed the practical examination, may serve as a probationary euthanasia technician under the direct supervision of a currently certified CET until such time as the next training course, practical examination and certification are conducted by a COHE member, a Board member, or the designee of either the COHE or the Board. (—)~~

~~f. An individual who has not passed the written examination may not serve as a euthanasia technician. (—)~~

~~g. An individual who attends a training session and passes the written examination but fails the practical examination may serve on probation until he has been re-examined. If the individual fails to pass the practical examination a second time and wishes to apply again, the individual shall attend the next regular training session and written examination.(—)~~

~~h. Upon termination from an agency as defined in Section 204 of these rules, a CET's certification immediately becomes invalid and the CET shall not perform animal euthanasia until employed by another certified euthanasia agency, at which time the certification may be reinstated.(—)~~

~~i. The agency shall notify the Board office in writing within thirty (30) days from the date the CET's employment at that agency is terminated.(—)~~

~~j. If a CET is employed again by a CEA prior to the expiration of their certification, the CEA employer may request reinstatement of the CET's certification. If a CET has not attended a euthanasia training in the three (3) year period preceding recertification, the CET may not be recertified and will need to reapply for certification, at COHE discretion.(—)~~

~~k. All certifications expire on July 1 of each year.(—)~~

~~04. **Certification Renewal.** Certifications may be renewed each year by payment of the annual renewal fee, provided that, every third year following the date of certification, the CET will need to attend a euthanasia training and pay the current training and certification fee prescribed by Section 014 of these rules. (—)~~

~~05. **Duties.** The duties of a CET include, but are not limited to:(—)~~

~~a. Preparing animals for euthanasia;(—)~~

~~b. Accurately recording the dosages for drugs that are administered and amounts for drugs wasted; (—)~~

~~e. Ordering supplies;(—)~~

~~d. Maintaining the security of all controlled substances and other approved drugs;(—)~~

~~e. Directly supervising probationary CET;(—)~~

~~f. Reporting to the Board violations or suspicions of a violation of these rules or any abuse of drugs; (—)~~

~~g. Humanely euthanizing animals; and(—)~~

~~h. Proper and lawful disposal of euthanized animals and expired or unwanted drugs, other chemical agent or the containers, instruments and equipment used in the administration of approved drugs.(—)~~

~~206. Grounds For Discipline—CEAs And CETs.~~

~~The Board may refuse to issue, renew, or reinstate the certification of a CEA or CET, or may deny, revoke, suspend, sanction, place on probation, or require voluntary surrender of the certification of a CEA or CET, impose other forms of discipline, and enter into consent agreements and negotiated settlements with CEAs and CETs pursuant to the procedures set forth in Title 67, Chapter 52, Idaho Code, for any of the following reasons:(—)~~

~~01. **Failure to Carry Out Duties.** Failure to carry out the duties of a CEA or CET.(—)~~

~~02. **Abuse of Chemical Substances.** Abuse of any chemical substance by:(—)~~

~~a. Selling or giving chemical substances away; or(—)~~

~~b. Stealing chemical substances; or(—)~~

~~e. The diversion or use of any chemical substances for other than legitimate euthanasia purposes; or (—)~~

~~d. Abetting anyone in the foregoing activities.(—)~~

~~03. **Euthanizing of Animals Without Proper Supervision.** Allowing uncertified individuals or probationary CETs to euthanize animals or personally euthanizing animals without proper supervision.(—)~~

~~04. **Administration of Approved Drugs Without Proper Supervision.** Allowing uncertified individuals or probationary CETs to administer approved drugs or personally administering approved drugs without proper supervision.(—)~~

~~05. **Euthanizing of Animals Without Proper Certification.** Allowing individuals or probationary CETs to euthanize animals or personally euthanizing animals without being properly certified to do so.(—)~~

~~06. **Fraud, Misrepresentation, or Deception.** The employment of fraud, misrepresentation of a material fact, or deception by an applicant or certificate holder in securing or attempting to secure the issuance or renewal of a certificate.(—)~~

~~07. **Unethical or Unprofessional Conduct.** Unethical or unprofessional conduct means to knowingly engage in conduct of a character likely to deceive or defraud the public and includes, but is not limited to:(—)~~

~~a. Working in conjunction with any agency or person illegally practicing as a CEA or CET; (—)~~

~~(—) b. Failing to provide sanitary facilities or apply sanitary procedures for the euthanizing of any animal;~~

~~e. Euthanizing animals in a manner that endangers the health and welfare of the public. A CET shall not euthanize animals if their ability to practice with reasonable skill and safety is adversely affected by reason of illness, excessive use of alcohol, drugs, narcotics, chemicals, or any other substance or as a result of any mental or physical disability;(—)~~

~~d. Gross ignorance, incompetence or inefficiency in the euthanizing of animals as determined by, but not limited to, the practices generally and currently followed and accepted by persons certified to practice as CETs in Idaho; (—)~~

~~e. Intentionally performing a duty, task or procedure involved in the euthanizing of animals for which the individual is not qualified; and(—)~~



- ~~f. Swearing falsely in any testimony or affidavits relating to practicing as a CEA or CET.(—)~~
- ~~08. **Conviction of Violating Any Federal or State Statute, Rule or Regulation.** Conviction of a charge of violating any federal or state statute or rule or regulation regulating narcotics, dangerous drugs or controlled substances.(—)~~
- ~~09. **Conviction of a Charge or Crime.** Being found guilty, convicted, placed on probation, having entered a guilty plea that is accepted by the court, forfeiture of bail, bond or collateral deposited to secure a defendant's appearance, or having received a withheld judgment or suspended sentence by a court of competent jurisdiction in Idaho or any other state of one (1) or more of the following:(—)~~
- ~~a. Any felony, as defined by Title 18, Chapter 1, Idaho Code; or(—)~~
- ~~b. Any crime constituting or having as an element the abuse of any drug, including alcohol.(—)~~
- ~~e. Any other criminal act that in any way is related to practicing as a CEA or CET as defined by Section 54-2103(8) and (9), Idaho Code.(—)~~
- ~~10. **Improper Record Keeping.** Failure to follow proper record keeping procedures as outlined in Board rules.(—)~~
- ~~11. **Improper Security for Approved Drugs.** Failure to provide and maintain proper security for approved euthanasia and restraint drugs as outlined in Board rules.(—)~~
- ~~12. **Improper Storage of Equipment and Approved Drugs.** Failure to properly store equipment or approved drugs as outlined in Board rules.(—)~~
- ~~13. **Improper Disposal of Approved Drugs and Equipment.** Failure to properly dispose of approved drugs and the containers, instruments and equipment used in their administration as outlined in Board rules.(—)~~
- ~~14. **Improper Labeling of Approved Drugs.** Failure to properly label approved euthanasia and restraint drugs as outlined by Board rules.(—)~~
- ~~15. **Revocation, Suspension, Limitation or Restriction.** The revocation, suspension, limitation, or restriction of a license, certificate or registration or any other disciplinary action by another state or U.S. jurisdiction or voluntary surrender of a license, certificate or registration by virtue of which one is licensed, certified or registered to practice as a CEA or CET in that state or jurisdiction on grounds other than nonpayment of the renewal fee.(—)~~
- ~~16. **Failure to Cooperate.**(—)~~
- ~~a. Failure of any applicant or certificate holder to cooperate with the Board during any investigation, even if such investigation does not personally concern the applicant or certificate holder; or(—)~~
- ~~b. Failure to comply with the terms of any order, negotiated settlement, or probationary agreement of the Board; or(—)~~
- ~~e. Failure to comply with the terms for certification renewal or to timely pay certification renewal fees.(—)~~
- ~~17. **Aiding and Abetting.** Knowingly aiding or abetting an uncertified agency or person to practice as a CEA or CET.(—)~~
- ~~18. **Current Certification.** Practicing as a CEA or CET without a current certification.(—)~~
- ~~19. **Improper Drug Preparation.** Preparing approved drugs, contrary to manufacturer's instructions.(—)~~

~~20. **Violation of any Law, Rules or Orders.** Violating or attempting to violate, directly or indirectly, or assisting or abetting the violation or conspiracy to violate any provisions of the veterinary law and rules or a written order of the Board issued pursuant to Title 54, Chapter 21, Idaho Code, the Idaho Board of Pharmacy law and rules, or the Code of Federal Regulations. (—)~~

~~207. **INSPECTION DEFICIENCIES.**~~

~~If there are inspection deficiencies with either a CEA or CET, a COHE member or the Board will document in writing areas for correction. The CEA or CET, or both, shall make corrections within the time period specified in the notice of deficiency, and correction will be verified by a COHE or Board member as recorded on the deficiency documentation. If the deficiency has not been corrected, the certification may be revoked by the Board, and the Idaho Board of Pharmacy will be notified. (—)~~

~~208. **999.(RESERVED)**~~

# IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

## 24.39.30 – RULES OF BUILDING SAFETY (BUILDING CODE RULES

### DOCKET NO. 24-3930-2302 (ZBR CHAPTER REWRITE, FEE RULE)

#### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, and Sections 33-356, 39-4107, 39-4109, 39-4112, 39-4113, 39-9701, 67-2614, 67-9406, and 67-9409, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Two public hearings concerning this rulemaking will be held as follows:

<b>Thursday, September 7, 2023, 9:00 a.m. MT &amp; Tuesday, November 7, 2023, 9:00 a.m. MT</b>
<b>Division of Occupational and Professional Licenses Chinden Campus Building 4 11341 W. Chinden Blvd., Bldg. #4 Boise, ID 83714</b>
<b>Telephone and web conferencing information will be posted on: <a href="https://dopl.idaho.gov/calendar/">https://dopl.idaho.gov/calendar/</a> and <a href="https://townhall.idaho.gov/">https://townhall.idaho.gov/</a></b>

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

**DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Building Code Board is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders, the proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter and to use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and Executive Order 2020-01.

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

The fees for applications, licenses, and reinstatement as designated in Rule 400 of these proposed rules are authorized in Section 39-4017, Idaho Code. None of these fees are being changed as a result of this rulemaking or since being previously reviewed by the Idaho legislature.

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

This rulemaking is not anticipated to have any negative fiscal impact on the State General Fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted under Docket No. 24-ZBRR-2301. The (Second) Omnibus Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 7, 2023 Idaho Administrative Bulletin, [Vol. 23-6, pp. 75-76](#).

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

- International Building Code. The 2018 Edition, and 2021 Edition Relating to Mass Timber.
- International Residential Code. Parts I, II, III, and IX of the 2018 Edition for one (1)- and two (2)- family dwellings.
- International Existing Building Code. 2018 Edition.
- International Energy Conservation Code – Commercial Provisions. The 2018 Edition.
- International Energy Conservation Code – Residential Provisions. The 2018 Edition.

The materials cited are incorporated by reference because they would be unduly cumbersome, expensive, or otherwise inexpedient to republish all or in part. The materials cited are codes, standards, or rules adopted by a nationally recognized organization or association.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this proposed rule, contact Katie Stuart, Bureau Chief, at (208) 577-2489. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before November 7, 2023.

DATED this 4th day of August, 2023.

Katie Stuart  
Bureau Chief  
11341 W. Chinden Blvd., Bldg. #4  
Boise, ID 83714  
Phone: (208) 577-2489  
Email: [katie.stuart@dopl.idaho.gov](mailto:katie.stuart@dopl.idaho.gov)

**THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 24-3930-2302**  
**(ZBR Chapter Rewrite)**

*\*Note – Due to extensive reorganization of this ZBR chapter, the rule text below is presented as clean text without showing amendments in legislative format. A redline copy provided by the agency has been included at the end of the docket for transparency and can be utilized to track all edits used to formulate the proposed rule.*

**24.39.30 – RULES OF BUILDING SAFETY (BUILDING CODE RULES)**

**000. LEGAL AUTHORITY.**

The rules are promulgated pursuant to Sections 33-356, 39-4107, 39-4109, 39-4112, 39-4113, 39-9701, Idaho Code. ( )

**001. SCOPE.**

The rules prescribe the criteria for enforcement and administration of the Idaho Building Code Act by the Idaho Building Code Board and the Division of Occupational and Professional Licenses and the integrated design and fundamental commissioning of public school facilities. ( )

**002. DEFINITIONS.**

**01. Listing Agency.** A person, firm, association, partnership or corporation which is in the business of listing or labeling and which maintains a periodic inspection program on current production of listed materials, and which makes available, not less frequently than annually, a published report of such listing in which specific information is included that the product has been tested to nationally approved standards and found safe for use in a specified manner. ( )

**02. Minor Alteration.** The following definition is used for the purpose of administering annual permits. ( )

**a.** Minor alterations shall include, but are not limited to, the following: partition walls constructed within a defined room; relocation of or existing openings or installation of new doors and windows in non-load bearing walls and not in construction meant to compartmentalize fire; window replacement in unaltered existing openings; roof repairs involving installation of less than one hundred (100) square feet of new roof covering; and new suspended ceilings that are not part of a required fire resistive assembly. ( )

**b.** Minor alterations shall not include: work that alters the fire resistive characteristics of the building or fire suppression systems; work that creates new openings in construction meant to compartmentalize fire such as fire walls, fire barriers, fire partitions, smoke barriers, smoke partitions, horizontal assemblies, shaft enclosures, stair enclosures; work that increases the floor area or height of the building; work that changes the structural load path of the building for gravity or horizontal loads; work that reduces the thermal resistant capacity of the building envelop; changes in the occupancy classification of the building or space; increases in the floor loads. ( )

**003. -- 199. (RESERVED)**

**200. INTEGRATED DESIGN AND FUNDAMENTAL COMMISSIONING OF PUBLIC SCHOOL FACILITIES.**

**01. Technical and Educational Information.** Technical and educational information related to integrated design and fundamental commissioning in the form of the American Institute of Architects Integrated Project Delivery Guide; Portland Energy Conservation, Inc. (PECI) Commissioning Guides; ASHRAE Guideline 0-2005-The Commissioning Process; and the Northwest Energy Efficiency Alliance Integrated Design Special Focus on Energy Performance Guide is available on the Division's. A building commissioned under the prescriptive approaches defined by any of the above-named national organizations is deemed to have completed the Fundamental Commissioning process. ( )

**02. Commissioning Agents.** The Division has compiled and made available for public examination a list of all known third party building commissioning agents in Idaho and its contiguous states. The Division has ensured that all such commissioning agents appearing on this list have been certified by the Building Commissioning Association (BCA) or other similar certifying entity. ( )

**03. Annual Optimization Review.** ( )

**a.** The third-party commissioning agent who performed the initial fundamental commissioning for a public school building must provide the school district with a written report identifying the systems which will be subject to the Idaho Code Section 33-356 annual optimization review and identifying the system requirements and/or other relevant measuring criteria. The written report shall, at a minimum include the following: ( )

**i.** Verification that the heating, ventilation, and air conditioning (HVAC) systems, controls, dampers, valves, sensors and other equipment used to control the system are functioning as they were at the commissioning of the building; ( )

**ii.** Verification that the lighting controls are functioning as they were at the commissioning of the building; and ( )

iii. The requirement that any changes made to any of the controls contained on the agent's list after the initial commissioning be re-set back to the commissioned settings unless it can be demonstrated that the new settings result in greater energy efficiency. ( )

b. The annual optimization review shall be performed by persons qualified to make the required determinations and adjustments. ( )

c. Following the annual optimization review, the school district shall submit to the Division written verification indicating (1) the systems identified by the commissioning agent, including those identified in this Section are functioning as they were at the initial commissioning; and (2) identifying the persons performing the optimization and their qualifications. ( )

**04. Commissioning Anniversary Date.** The date upon which the commissioning agent provides the school district with the required written report described in Paragraph 038.04.b. of these rules shall be the commissioning anniversary date for purposes of this Section. If a school district seeks to qualify a building for the building replacement value calculation, the annual optimization review shall be performed within thirty (30) days of the annual commissioning anniversary date following the first year the building is in operation. The written verification required by Paragraph 038.03.e. of these rules is due to the Division not later than sixty (60) days after the annual commissioning anniversary date. ( )

**05. Fundamental Building Commissioning Requirements.** ( )

a. School districts seeking to qualify a building for the building replacement value calculation shall engage a building commissioning agent. ( )

b. The commissioning agent must document the owner's requirements for each commissioned system in the facility. All HVAC and controls systems, duct work and piping, renewable and alternative technologies, lighting controls and day lighting, waste heat recovery, and any other advanced technologies incorporated in the building must be commissioned. Building envelope systems must also be verified. The owner's requirements for these systems may include efficiency targets and other performance criteria such as temperature and lighting levels that will define the performance criteria for the functional performance testing that occurs prior to acceptance. ( )

c. The commissioning agent shall include commissioning requirements in the project construction documents. This includes the scope of commissioning for the project, the systems to be commissioned, and the various requirements related to schedule, submittal reviews, testing, training, O & M manuals, and warranty reviews. ( )

d. The commissioning agent shall develop and utilize a commissioning plan. This plan must include an overview of the commissioning process for the project, a list of commissioned systems, primary commissioning participants and their roles, a communication and management plan, an outline of the scope of commissioning tasks, a list of work products, a schedule, and a description of any commissioning testing activities. ( )

e. The commissioning agent must submit a report to the owner once the commissioning plan has been executed. ( )

**201. -- 499. (RESERVED)**

**500. PERMITS AND PLAN REVIEW.**

**01. Annual Permit.** In lieu of an individual permit for each minor alteration to an already approved building, the Division may issue an annual permit upon application therefor to any state agency or state governmental organization regularly employing one (1) or more qualified trade persons in the building, structure or on the premises or campus owned or operated by the applicant for the permit. The agency to whom an annual permit is issued shall keep a detailed record of alterations made under such annual permit. The Division shall be allowed access to such records upon request or such records shall be filed with the Division as designated. The permit holder shall request inspections and make the work accessible for inspection as required by the adopted codes and herein. ( )

**02. Plans Not Required.** Plans are not required for group U occupancies of Type V conventional light-frame wood construction. ( )

**03. Fees.** ( )

**a.** Technical Service Fee. One hundred dollars (\$100) per hour. ( )

**b.** Building Permit Fees. The determination of value or valuation will be made by the administrator and includes the total value of all construction work for which a permit is issued.

<b>TABLE 1-A - BUILDING PERMIT FEES</b>	
<b>Total Valuation</b>	<b>Fee</b>
\$1 to \$500	= \$23.50
\$501 to \$2,000	= \$23.50 for the first \$500 plus \$3.05 for each additional \$100, or fraction thereof, to and including \$2,000
\$2,001 to \$25,000	= \$69.25 for the first \$2,000 plus \$14 for each additional \$1,000, or fraction thereof, to and including \$25,000
\$25,001 to \$50,000	= \$391.75 for the first \$25,000 plus \$10.10 for each additional \$1,000, or fraction thereof, to and including \$50,000
\$50,001 to \$100,000	= \$643.75 for the first \$50,000 plus \$7 for each additional \$1,000, or fraction thereof, to and including \$100,000
\$100,001 to \$500,000	= \$993.75 for the first \$100,000 plus \$5.60 for each additional \$1,000, or fraction thereof, to and including \$500,000
\$500,001 to \$1,000,000	= \$3,233.75 for the first \$500,000 plus \$4.75 for each additional \$1,000, or fraction thereof, to and including \$1,000,000
\$1,000,001 to \$5,000,000	= \$5,608.75 for the first \$1,000,000 plus \$3.65 for each additional \$1,000, or fraction thereof, to and including \$5,000,000
\$5,000,001 to \$10,000,000	= \$20,208.75 for the first \$5,000,000 plus \$2.75 for each additional \$1,000, or fraction thereof, to and including \$10,000,000
\$10,000,001 and up	= \$33,958.75 for the first \$10,000,000 plus \$2 for each additional \$1,000, or fraction thereof

( )

**c.** Fees for Annual Permits. A fee for inspections performed on annual permits shall be charged at the rate of one hundred dollars (\$100) per inspection. The Division shall bill the applicant for annual permits and failure of the applicant to pay the fee within sixty (60) days may result in cancellation of the annual permit. ( )

**d.** Plan Review Fees. Plan review fees shall be charged at an hourly rate of one hundred dollars (\$100) per hour up to a maximum of sixty-five percent (65%) of the calculated building permit fee with a minimum required fee of forty percent (40%) of the calculated building permit fee. All requests for plan review services shall be accompanied by a payment in the amount of at least forty percent (40%) of the calculated building permit fee. Upon completion of the plan review, any additional fees, above the minimum required, are due to the Division by the requesting party. ( )

**501. -- 599. (RESERVED)**

**600. IDAHO BUILDING CODES.**

Pursuant to Sections 39-4109 and 39-4109A, Idaho Code, the Board adopts the following international codes with identified amendments: ( )

**01. International Building Code.** The 2018 Edition, including appendices pertaining to building accessibility, with the following amendments: ( )

**a.** Delete Section 305.2.3 and replace with the following: 305.2.3 Twelve (12) or fewer children in a dwelling unit. A facility such as the above within a dwelling unit and having twelve (12) or fewer children receiving such day care shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code. ( )

**i.** Delete Section 308.2.4 and replace with the following: 308.2.4 Five (5) or fewer persons receiving custodial care. A facility with five (5) or fewer persons receiving custodial care shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code. ( )

**ii.** Delete Section 308.3.2 and replace with the following: 308.3.2 Five (5) or fewer persons receiving medical care. A facility with five (5) or fewer persons receiving medical care shall be classified as a Group R-3 occupancy. ( )

**iii.** Delete Section 308.5.4 and replace with the following: 308.5.4 Persons receiving care in a dwelling unit. A facility such as the above within a dwelling unit and having twelve (12) or fewer children receiving day care or having five (5) or fewer persons receiving custodial care shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code. ( )

**b.** Section 310.4: Add the following: “Dwelling units providing day care for twelve (12) or fewer children”. ( )

**c.** Section 310.4.1. Delete and replace with the following: 310.4.1 Care facilities within a dwelling. Care facilities for twelve (12) or fewer children receiving day care or for five (5) or fewer persons receiving personal care or custodial care that are within a one- or two-family dwelling are permitted to comply with the International Residential Code. ( )

**d.** Add new Section 602.1.2: 602.1.2 Alternative provisions. As an alternative to the construction types defined in Sections 602.2 through 602.5, buildings and structures erected or to be erected, altered, or extended in height or area may be classified as construction type IV-A, IV-B, or IV-C in accordance with the provisions adopted in Paragraph 004.01.b of these rules. Buildings and structures classified as construction type IV-A, IV-B, or IV-C shall comply with the provisions adopted in Paragraph 004.01.h of these rules and all other applicable provisions of this code. ( )

**e.** Table 2902.1 Minimum Number of Required Plumbing Fixtures. Delete footnote<sup>c</sup> and replace with the following: e For business occupancies, excluding restaurants, and mercantile occupancies with an occupant load of thirty (30) or fewer, service sinks shall not be required. ( )

**f.** Table 2902.1 Minimum Number of Required Plumbing Fixtures. Delete footnote f and replace with the following: f Drinking fountains are not required for an occupant load of thirty (30) or fewer. ( )

**g.** Section 3113 Relocatable Buildings. Delete. ( )

**02. International Building Code, 2021 Edition.** The following provisions of the 2021 Edition related to mass timber construction: ( )

**a.** In Section 202, the definitions of the terms MASS TIMBER; NONCOMBUSTIBLE PROTECTION (FOR MASS TIMBER); SECONDARY STRUCTURAL MEMBERS; and WALL, LOAD BEARING; ( )

**b.** Sections 403.3.2, 508.4.4.1, 509.4.1.1, 602.4 through 602.4.3.6, 703.6, 703.7, 704.4, 722.7 through 722.7.2.2, 1705.5.3, 1705.20, 2304.10.1, 3313.1 through 3313.3.3, 3313.5, and 3314.1; ( )



c. Tables 504.3, 504.4, 506.2, 601, 705.5, 722.7.1(1), 722.7.1(2), and 1705.5.3, including any note following each table adopted in this subparagraph; and ( )

d. In Chapter 35, the referenced standards ANSI/APA PRG 320—2019: Standard for Performance-rated Cross-laminated Timber, referenced in Sections 602.4 and 2303.1.4, and ASTM D3498—03(2011): Standard Specification for Adhesives for Field-Gluing Plywood to Lumber Framing for Floor Systems, referenced in Section 703.7. ( )

**03. International Residential Code, 2018 Edition.** Parts I, II, III, and IX of the 2018 Edition for one (1)- and two (2)- family dwellings, with the following amendments: ( )

a. Section R101.2 Scope. Delete the exception and replace with the following: Exception: The following shall also be permitted to be constructed in accordance with this code: 1. Owner-occupied lodging houses with five (5) or fewer guestrooms and ten (10) or fewer total occupants. 2. A care facility with five (5) or fewer persons receiving custodial care within a dwelling unit or single-family dwelling. 3. A care facility for five (5) or fewer persons receiving personal care that are within a dwelling unit or single-family dwelling. 4. A care facility with twelve (12) or fewer children receiving day care within a dwelling unit or single-family dwelling. ( )

b. Section R105.2. Amend Item number 7 under the “Building” subheading Replace the words “24 inches (610 mm)” with “four (4) feet (1219 mm)” ( )

c. Section R105.2. Add the following exemption under the “Building” subheading: 11. Flag poles. ( )

d. Section R301.2.1.2 Protection of Openings. Delete. ( )

e. Table R302.1(1). Delete and replace with the following:

**TABLE R302.1(1) - EXTERIOR WALLS**

EXTERIOR WALL ELEMENT		MINIMUM FIRE-RESISTANCE RATING	MINIMUM FIRE SEPARATION DISTANCE
Walls	Fire-resistance rated	1 hour-tested in accordance with ASTM E 119, UL263, or Section 703.3 of the International Building Code with exposure from both sides	< 3 feet
	Not fire-resistance rated	0 hours	≥ 3 feet
Projections	Fire-resistance rated	1 hour on the underside, or heavy timber, or fire retardant-treated wood <sup>a,b</sup>	≥ 2 feet to < 3 feet
	Not fire-resistance rated	0 hours	≥ 3 feet
Openings in Walls	Not allowed	N/A	< 3 feet
	25% maximum of wall area	0 hours	≥ 3 feet to < 5 feet
	Unlimited	0 hours	5 feet
Penetrations	All	Comply with Section R302.4	< 3 feet
		None required	≥ 3 feet

For SI: 1 foot = 304.8 mm.

N/A = Not Applicable

<sup>a</sup>The fire-resistance rating shall be permitted to be reduced to zero (0) hours on the underside of the eave overhang if fireblocking is provided from the wall top plate to the underside of the roof sheathing.

<sup>b</sup>The fire-resistance rating shall be permitted to be reduced to zero (0) hours on the underside of the rake overhang where gable vent openings are not installed. ( )

**f.** Delete Table R302.6 Dwelling-Garage Separation and replace with the following table:

Separation	Material
From the residence, attics, and habitable rooms above the garage	Not less than 5/8-inch Type X gypsum board or equivalent applied to the garage side
Structure(s) supporting floor/ceiling assemblies used for separation required by this section	
Garages located less than 3 feet from a dwelling unit on the same lot	Not less than 5/8-inch Type X gypsum board or equivalent applied to the interior side of exterior walls that are within this area

( )

**g.** Section R302.13 Fire protection of floors. Delete. ( )

**h.** Section R303.4. Delete and replace with the following: Mechanical Ventilation. Dwelling units shall be provided with whole-house mechanical ventilation in accordance with Section M1505.4. ( )

**i.** Section R313.1 Townhouse automatic fire sprinkler systems. Delete the exception and replace with the following: Exception: Automatic residential fire sprinkler systems shall not be required in townhouses where either two (2) one (1)-hour fire-resistance-rated walls or a common two (2)-hour fire-resistance rated wall, as specified in item number 2 of Section R302.2.2 is installed between dwelling units or when additions or alterations are made to existing townhouses that do not have an automatic residential fire sprinkler system installed. ( )

**j.** Section R313.2 One- and two-family dwellings automatic fire sprinkler systems. Delete. ( )

**k.** Section R314.2.2 Alterations, repairs and additions Exception Item #2. Delete. ( )

**l.** Section R315.2.2 Alterations, repairs and additions Exception Item #2. Delete. ( )

**m.** Section R322.1.10 As-built elevation documentation. Delete. ( )

**n.** Tables R403 Minimum Depth (D) and Width (W) of Crushed Stone Footings (inches), R403.1(1) Minimum Width and Thickness for Concrete Footings for Light-Frame Construction (inches), R403.1(2) Minimum Width and Thickness for Concrete Footings for Light-Frame Construction and Brick Veneer (inches), and R403.1(3) Minimum Width and Thickness for Concrete Footings with Cast-In-Place or Fully Grouted Masonry Wall Construction (inches). Delete. ( )

**o.** Add the following as Table R403.1: ( )

**TABLE R403.1**  
**MINIMUM WIDTH OF CONCRETE, PRECAST, OR MASONRY FOOTINGS (inches)<sup>a</sup>**

	LOAD-BEARING VALUE OF SOIL (psf)			
	1,500	2,000	3,000	≥ 4,000
<b>Conventional light-frame construction</b>				
1-Story	12	12	12	12
2-Story	15	12	12	12
3-Story	23	17	12	12
<b>4-inch brick veneer over light frame or 8-inch hollow concrete masonry</b>				
1-Story	12	12	12	12
2-Story	21	16	12	12
3-Story	32	24	16	12
<b>8-inch solid or fully grouted masonry</b>				
1-Story	16	12	12	12
2-Story	29	21	14	12
3-Story	42	32	21	16

For SI: 1 inch = 25.4 mm, 1 pound per square foot = 0.0479 kPa.

<sup>a</sup>Where minimum footing width is twelve (12) inches, use of a single wythe of solid or fully grouted twelve (12)-inch nominal concrete masonry units is permitted. ( )

**p.** Section R403.1.1. Delete and replace with the following: R403.1.1 Minimum size. Minimum sizes for concrete and masonry footings shall be as set forth in Table R403.1 and Figure R403.1(1). The footing width (W) shall be based on the load bearing value of the soil in accordance with Table R401.4.1. Spread footings shall be at least six (6) inches in thickness (T). Footing projections (P) shall be at least two (2) inches and shall not exceed the thickness of the footing. The size of footings supporting piers and columns shall be based on the tributary load and allowable soil pressure in accordance with Table R401.4.1. Footings for wood foundations shall be in accordance with the details set forth in Section R403.2 and Figures R403.1(2) and R403.1(3). ( )

**q.** Section R602.10. Delete and replace with the following: Buildings shall be braced in accordance with this Section or, when applicable Section R602.12, or the most current edition of APA System Report SR-102 as an alternate method. Where a building, or portion thereof, does not comply with one (1) or more of the bracing requirements in this Section, those portions shall be designed and constructed in accordance with Section R301.1. ( )

**04. International Existing Building Code.** 2018 Edition. ( )

**05. International Energy Conservation Code – Commercial Provisions.** The 2018 Edition with the following amendments: ( )

**a.** Add new Section C101.5.2: C101.5.2 Industrial, electronic, and manufacturing equipment. Buildings or portions thereof that are heated or cooled exclusively to maintain the required operating temperature of industrial, electronic, or manufacturing equipment shall be exempt from the provisions of this code. Such buildings or portions thereof shall be separated from connected conditioned space by building thermal envelope assemblies complying with this code. ( )

b. Add the following Exemptions to section C402.1.1: ( )

i. Exemption 4. Accessory utility and storage buildings and sports practice buildings accessory to A, B, and E occupancies where buildings maintain no heating or cooling or where intermittent heating and cooling systems are installed. ( )

ii. Exemption 5. Buildings for domestic water wells, irrigation wells, sewer pump facilities, and sewer lift station buildings where equipment produces internal heat loads and where intermittent heating or cooling is provided to prevent freezing or overheating of equipment. ( )

c. Add the following as exception number 7 under Section C403.5 Economizers (Prescriptive): 7. Unusual outdoor air contaminate conditions – Systems where special outside air filtration and treatment for the reduction and treatment of unusual outdoor contaminants, makes an air economizer infeasible. ( )

**06. International Energy Conservation Code – Residential Provisions.** The 2018 Edition with the following amendments: ( )

a. R202 General Definitions. Add the following to the definition of “Conditioned Space”: This definition shall not apply to garage spaces or other similar spaces where heating or cooling is installed for frost protection or intermittent use. ( )

b. Table R402.1.2 Insulation and Fenestration Requirements by Component. Delete the rows in climate zones “5 and Marine 4” and “6” and replace with the following:

TABLE R402.1.2 INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT <sup>a</sup>										
Climate Zone	Fenestration U-Factor <sup>b</sup>	Skylight U-factor <sup>b</sup>	Glazed Fenestration SHGC <sup>b, c</sup>	Ceiling R-Value	Wood Frame Wall R-Value	Mass Wall R-Value <sup>i</sup>	Floor R-Value	Basement <sup>c</sup> Wall R-Value	Slab <sup>d</sup> R-Value & Depth	Crawlspace <sup>c</sup> Wall R-Value
5	0.32	0.55	NR	38	20 or 13+5 <sup>h</sup>	13/17	30 <sup>g</sup>	15/19	10, 2 ft	15/19
6	0.30	0.55	NR	49	22 or 13+5 <sup>h</sup>	15/20	30 <sup>g</sup>	15/19	10, 4 ft	15/19

( )

c. Table R402.1.2 - Insulation and Fenestration Requirements by Component. Add the following as footnote k to the Table title: k. For residential log home building thermal envelope construction requirements see Section R402.6. ( )

d. Table R402.1.4 Equivalent U-Factors. Delete the rows in climate zones “5 and Marine 4” and “6” and replace with the following:

TABLE R402.1.4 EQUIVALENT U-FACTORS <sup>a</sup>								
Climate Zone	Fenestration U-factor	Skylight U-factor	Ceiling U-factor	Frame Wall U-factor	Mass Wall U-factor <sup>b</sup>	Floor U-factor	Basement Wall U-factor	Crawlspace Wall U-factor
5	0.32	0.55	0.030	0.060	0.082	0.033	0.050	0.055

TABLE R402.1.4 EQUIVALENT U-FACTORS <sup>a</sup>								
Climate Zone	Fenestration U-factor	Skylight U-factor	Ceiling U-factor	Frame Wall U-factor	Mass Wall U-factor <sup>b</sup>	Floor U-factor	Basement Wall U-factor	Crawlspace Wall U-factor
6	0.30	0.55	0.026	0.057	0.060	0.033	0.050	0.055

( )

e. Section R402.4.1.2. Add the following exception: Visual Inspection. The Permit Holder will determine at the time of permit application the method of determining building envelope tightness. A visual inspection shall be considered acceptable in lieu of testing when the items listed in Table R402.4.1.1, applicable to the method of construction, are field verified. ( )

f. Add new Section R402.6: R402.6 Residential log home thermal envelope. Residential log home construction shall comply with Section R401 (General), Section R402.4 (Air leakage), Section R402.5 (Maximum fenestration U-factor and SHGC), Section R403.1 (Controls), the mandatory sections of Sections R403.3 through R403.9, Section R404 (Electrical Power and Lighting Systems), and either 1., 2., or 3. as follows: 1. Sections R402.2 through R402.3, Section R403.3.1 (Insulation), Section R404.1 (Lightning equipment), and Table R402.6 (Log Home Prescriptive Thermal Envelope Requirements by Component). 2. Section R405 (Simulated Performance Alternative). 3. REScheck (U.S. Department of Energy Building Codes Program). ( )

g. Add new Table R402.6:

TABLE R402.6 LOG HOME PRESCRIPTIVE THERMAL ENVELOPE REQUIREMENTS BY COMPONENT									
For SI: 1 foot = 304.8 mm.									
Climate Zone	Fenestration U-factor <sup>a</sup>	Skylight U-factor	Glazed Fenestration SHGC	Ceiling R-value	Min. Average Log Size In Inches	Floor R-value	Basement Wall R-value <sup>d</sup>	Slab R-value & Depth <sup>b</sup>	Crawl Space Wall R-value <sup>d</sup>
5, 6 - High efficiency equipment path <sup>c</sup>	0.32	0.60	NR	49	5	30	15/19	10, 4 ft.	10/13

<sup>a</sup>The fenestration U-factor column excludes skylights. The SHGC column applies to all glazed fenestration.

<sup>b</sup>R-5 shall be added to the required slab edge R-values for heated slabs.

<sup>c</sup>90% AFUE natural gas or propane, 84% AFUE oil, or 15 SEER heat pump heating equipment (zonal electric resistance heating equipment such as electric base board electric resistance heating equipment as the sole source for heating is considered compliant with the high efficiency equipment path).

<sup>d</sup>“15/19” means R-15 continuous insulated sheathing on the interior or exterior of the home or R-19 cavity insulation at the interior of the basement wall. “15/19” shall be permitted to be met with R-13 cavity insulation on the interior of the basement wall plus R-5 continuous insulated sheathing on the interior or exterior of the home. “10/13” means R-10 continuous insulated sheathing on the interior or exterior of the home or R-13 cavity insulation at the interior of the basement wall.

**TABLE R402.6**  
**LOG HOME PRESCRIPTIVE THERMAL ENVELOPE REQUIREMENTS BY COMPONENT**

For SI: 1 foot = 304.8 mm.

Climate Zone	Fenestration U-factor <sup>a</sup>	Skylight U-factor	Glazed Fenestration SHGC	Ceiling R-value	Min. Average Log Size In Inches	Floor R-value	Basement Wall R-value <sup>d</sup>	Slab R-value & Depth <sup>b</sup>	Crawl Space Wall R-value <sup>d</sup>
5	0.32	0.60	NR	49	8	30	10/13	10, 2 ft.	10/13
6	0.30	0.60	NR	49	8	30	15/19	10, 4 ft.	10/13

<sup>a</sup>The fenestration U-factor column excludes skylights. The SHGC column applies to all glazed fenestration.

<sup>b</sup>R-5 shall be added to the required slab edge R-values for heated slabs.

<sup>c</sup>90% AFUE natural gas or propane, 84% AFUE oil, or 15 SEER heat pump heating equipment (zonal electric resistance heating equipment such as electric base board electric resistance heating equipment as the sole source for heating is considered compliant with the high efficiency equipment path).

<sup>d</sup>“15/19” means R-15 continuous insulated sheathing on the interior or exterior of the home or R-19 cavity insulation at the interior of the basement wall. “15/19” shall be permitted to be met with R-13 cavity insulation on the interior of the basement wall plus R-5 continuous insulated sheathing on the interior or exterior of the home. “10/13” means R-10 continuous insulated sheathing on the interior or exterior of the home or R-13 cavity insulation at the interior of the basement wall.

( )

**601. -- 999. (RESERVED)**

[Agency redlined courtesy copy]

**24.39.30 – RULES OF BUILDING SAFETY (BUILDING CODE RULES)**

**000. LEGAL AUTHORITY.**

The rules are promulgated pursuant to Sections [33-356](#), 39-4107, [39-4109](#), [39-4112](#), [39-4113](#), [39-9701](#), Idaho Code. (4-6-23)T

**001. SCOPE.**

The rules prescribe the criteria for enforcement and administration of the Idaho Building Code Act by the Idaho Building Code Board and the Division of Occupational and Professional Licenses [and the integrated design and fundamental commissioning of public school facilities](#).(4-6-23)T

~~**002. -- 003. (RESERVED)**~~

~~**004.600. ADOPTION AND INCORPORATION BY REFERENCE IDAHO BUILDING CODES.**~~

~~Under the provisions of Sections 39-4109 and 39-4109A, Idaho Code, the codes enumerated in this section are hereby adopted and incorporated by reference into these rules. Pursuant to Sections 39-4109 and 39-4109A, Idaho Code, the Board adopts the following international codes with identified amendments: (4-6-23)T~~

**01. International Building Code.** The 2018 Edition, including appendices pertaining to building accessibility, with the following amendments:(4-6-23)T

~~a.~~ 2018 Edition with the following amendments:(4-6-23)T

~~ia.~~ Delete Section 305.2.3 and replace with the following: 305.2.3 Twelve (12) or fewer children in a dwelling unit. A facility such as the above within a dwelling unit and having twelve (12) or fewer children receiving such day care shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code. (4-6-23)T

ii. Delete Section 308.2.4 and replace with the following: 308.2.4 Five (5) or fewer persons receiving custodial care. A facility with five (5) or fewer persons receiving custodial care shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code.(4-6-23)T

iii. Delete Section 308.3.2 and replace with the following: 308.3.2 Five (5) or fewer persons receiving medical care. A facility with five (5) or fewer persons receiving medical care shall be classified as a Group R-3 occupancy. (4-6-23)T

iv. Delete Section 308.5.4 and replace with the following: 308.5.4 Persons receiving care in a dwelling unit. A facility such as the above within a dwelling unit and having twelve (12) or fewer children receiving day care or having five (5) or fewer persons receiving custodial care shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code.(4-6-23)T

~~vb.~~ Delete Section 310.4: Add the following: “Dwelling units providing day care for twelve (12) or fewer children”. and replace with the following: 310.4 Residential Group R-3. Residential Group R-3 occupancies where the occupants are primarily permanent in nature and not classified as Group R-1, R-2, R-4, E or I, including: 1. Buildings that do not contain more than two (2) dwelling units. 2. Care facilities that provide accommodations for five (5) or fewer persons receiving personal care, custodial care or medical care. 3. Congregate living facilities (nontransient) with sixteen (16) or fewer occupants, including boarding houses (nontransient), convents, dormitories, fraternities and sororities, and monasteries. 4. Congregate living facilities (transient) with ten (10) or fewer occupants, including boarding houses (transient). 5. Dwelling units providing day care for twelve (12) or fewer children. 6. Lodging houses (transient) with five (5) or fewer guest rooms and ten (10) or fewer occupants. (4-6-23)T

~~vic.~~ Delete Section 310.4.1. Delete and replace with the following: 310.4.1 Care facilities within a dwelling. Care facilities for twelve (12) or fewer children receiving day care or for five (5) or fewer persons receiving personal care or custodial care that are within a one- or two-family dwelling are permitted to comply with the International Residential Code.(4-6-23)T

~~viid.~~ Add the following asAdd new Section 602.1.2: 602.1.2 Alternative provisions. As an alternative to the construction types defined in Sections 602.2 through 602.5, buildings and structures erected or to be erected, altered, or extended in height or area may be classified as construction type IV-A, IV-B, or IV-C in accordance with the provisions adopted in Paragraph 004.01.b of these rules. Buildings and structures classified as construction type IV-A, IV-B, or IV-C shall comply with the provisions adopted in Paragraph 004.01.~~bh~~ of these rules and all other applicable provisions of this code.(4-6-23)T

~~viii.e.~~ Delete footnote<sup>e</sup> under Table 2902.1 Minimum Number of Required Plumbing Fixtures. Delete footnote<sup>e</sup> and replace with the following: <sup>e</sup> For business occupancies, excluding restaurants, and mercantile occupancies with an occupant load of thirty (30) or fewer, service sinks shall not be required.(4-6-23)T

~~ix.f.~~ Delete footnote<sup>f</sup> from Table 2902.1 Minimum Number of Required Plumbing Fixtures. add footnote<sup>f</sup> in the header row of the column in Table 2902.1 labeled “Drinking Fountains,” and dDelete footnote<sup>f</sup> under Table 2902.1 and replace with the following: <sup>f</sup> Drinking fountains are not required for an occupant load of thirty (30) or fewer.(4-6-23)T

~~xg.~~ Delete Section 3113.1 Relocatable Buildings. Delete. And replace with the following: 3113.1

~~General. The provisions of this Section shall apply to relocatable buildings. Relocatable buildings manufactured after the effective date of this code shall comply with the applicable provisions of this code; title 39, chapter 43, Idaho Code; and IDAPA 24.39.31. Exception: This Section shall not apply to manufactured housing used as dwellings.(4-6-23)T~~

**02. International Building Code.** ~~The following provisions of the 2021 Edition related to mass timber construction:( )~~

~~b. The provisions of the 2021 Edition relating to mass timber construction, including, but not limited to:~~  
(4-6-23)T

~~ia. In Section 202, the definitions of the terms MASS TIMBER; NONCOMBUSTIBLE PROTECTION (FOR MASS TIMBER); SECONDARY STRUCTURAL MEMBERS; and WALL, LOAD BEARING;~~  
(4-6-23)T

~~ib. Sections 403.3.2, 508.4.4.1, 509.4.1.1, 602.4 through 602.4.3.6, 703.6, 703.7, 704.4, 722.7 through 722.7.2.2, 1705.5.3, 1705.20, 2304.10.1, 3313.1 through 3313.3.3, 3313.5, and 3314.1;(4-6-23)T~~

~~ic. Tables 504.3, 504.4, 506.2, 601, 705.5, 722.7.1(1), 722.7.1(2), and 1705.5.3, including any note following each table adopted in this subparagraph; and(4-6-23)T~~

~~id. In Chapter 35, the referenced standards ANSI/APA PRG 320—2019: Standard for Performance-rated Cross-laminated Timber, referenced in Sections 602.4 and 2303.1.4, and ASTM D3498—03(2011): Standard Specification for Adhesives for Field-Gluing Plywood to Lumber Framing for Floor Systems, referenced in Section 703.7.~~  
(4-6-23)T

**023. International Residential Code.** ~~2018 Edition with the following amendments~~ **Parts I, II, III, and IX of the 2018 Edition for one (1)- and two (2)- family dwellings, with the following amendments:**(4-6-23)T

~~a. Section R101.2 Scope. Delete the exception under Section R101.2 Scope, and replace with the following: Exception: The following shall also be permitted to be constructed in accordance with this code: 1. Owner-occupied lodging houses with five (5) or fewer guestrooms and ten (10) or fewer total occupants. 2. A care facility with five (5) or fewer persons receiving custodial care within a dwelling unit or single-family dwelling. 3. A care facility for five (5) or fewer persons receiving personal care that are within a dwelling unit or single-family dwelling. 4. A care facility with twelve (12) or fewer children receiving day care within a dwelling unit or single-family dwelling. (4-6-23)T~~

~~b. Delete Section R104.10.1 Flood hazard areas.(4-6-23)T~~

~~eb. Section R105.2. Delete Amend i Item number 7 under the “Building” subheading of Section R105.2 Work exempt from permit, and replace with the following: 7. Prefabricated swimming pools that are not greater than Replace the words “24 inches (610 mm)” with “four (4) feet (one thousand, two hundred nineteen (1219) mm)” deep.~~  
(4-6-23)T

~~dc. Section R105.2. Add the following as exemption item number 11 under the “Building” subheading of Section R105.2 Work exempt from permit: 11. Flag poles.(4-6-23)T~~

~~e. Delete Section R109.1.3 and replace with the following: R109.1.3 Floodplain inspections. For construction in areas prone to flooding as established by Table R301.2(1), upon placement of the lowest floor, including basement, the building official is authorized to require submission of documentation of the elevation of the lowest floor, including basement, required in Section R322.(4-6-23)T~~

~~fd. Delete Section R301.2.1.2 Protection of Openings. Delete.(4-6-23)T~~

~~ge. Delete Table R302.1(1). Delete and replace with the following:~~

**TABLE R302.1(1) - EXTERIOR WALLS**



EXTERIOR WALL ELEMENT		MINIMUM FIRE-RESISTANCE RATING	MINIMUM FIRE SEPARATION DISTANCE
Walls	Fire-resistance rated	1 hour-tested in accordance with ASTM E 119, UL263, or Section 703.3 of the International Building Code with exposure from both sides	< 3 feet
	Not fire-resistance rated	0 hours	≥ 3 feet
Projections	Fire-resistance rated	1 hour on the underside, or heavy timber, or fire retardant-treated wood <sup>a,b</sup>	≥ 2 feet to < 3 feet
	Not fire-resistance rated	0 hours	≥ 3 feet
Openings in Walls	Not allowed	N/A	< 3 feet
	25% maximum of wall area	0 hours	≥ 3 feet to < 5 feet
	Unlimited	0 hours	5 feet
Penetrations	All	Comply with Section R302.4	< 3 feet
		None required	≥ 3 feet

For SI: 1 foot = 304.8 mm.

N/A = Not Applicable

<sup>a</sup> The fire-resistance rating shall be permitted to be reduced to zero (0) hours on the underside of the eave overhang if fireblocking is provided from the wall top plate to the underside of the roof sheathing.

<sup>b</sup> The fire-resistance rating shall be permitted to be reduced to zero (0) hours on the underside of the rake overhang where gable vent openings are not installed.(4-6-23)T

**f.** Delete Table R302.6 Dwelling-Garage Separation and replace with the following table:

SEPARATION	MATERIAL
<u>From the residence, attics, and habitable rooms above the garage</u>	<u>Not less than 5/8-inch Type X gypsum board or equivalent applied to the garage side</u>
<u>Structure(s) supporting floor/ceiling assemblies used for separation required by this section</u>	
<u>Garages located less than 3 feet from a dwelling unit on the same lot</u>	<u>Not less than 5/8-inch Type X gypsum board or equivalent applied to the interior side of exterior walls that are within this area</u>

( )

- ~~hf.~~ ~~Delete~~ Section R302.13 Fire protection of floors. ~~Delete.~~(4-6-23)T
- ~~ig.~~ ~~Delete~~ Section R303.4. ~~Delete~~ and replace with the following: ~~R303.4~~ Mechanical Ventilation. Dwelling units shall be provided with whole-house mechanical ventilation in accordance with Section M1505.4. (4-6-23)T
- ~~jh.~~ ~~Delete the exception under~~ Section R313.1 Townhouse automatic fire sprinkler systems. ~~Delete the exception~~ and replace with the following: Exception: Automatic residential fire sprinkler systems shall not be required in townhouses where either two (2) one (1)-hour fire-resistance-rated walls or a common two (2)-hour fire-resistance rated wall, as specified in item number 2 of Section R302.2.2 is installed between dwelling units or when additions or alterations are made to existing townhouses that do not have an automatic residential fire sprinkler system installed. (4-6-23)T
- ~~ki.~~ ~~Delete~~ Section R313.2 One- and two-family dwellings automatic fire sprinkler systems. ~~Delete.~~ (4-6-23)T
- ~~lj.~~ ~~Delete the exceptions under~~ Section R314.2.2 Alterations, repairs and additions; ~~Exception Item #2. Delete.~~ and replace with the following: Exceptions: 1. Work involving the exterior surfaces of dwellings, such as, but not limited to, replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck or electrical permits, are exempt from the requirements of this section. 2. Installation, alteration or repairs of plumbing or mechanical systems are exempt from the requirements of this section.(4-6-23)T
- ~~mk.~~ ~~Delete the exceptions under~~ Section R315.2.2 Alterations, repairs and additions; ~~Exception Item #2. Delete.~~ and replace with the following: Exceptions: 1. Work involving the exterior surfaces of dwellings, such as, but not limited to, replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck or electrical permits, are exempt from the requirements of this section. 2. Installation, alteration or repairs of noncombustion plumbing or mechanical systems are exempt from the requirements of this section. (4-6-23)T
- ~~nl.~~ ~~Delete~~ Section R322.1.10 As-built elevation documentation. ~~Delete.~~(4-6-23)T
- ~~o.~~ ~~Delete~~ Section ~~R322.2.1~~ and replace with the following: ~~R322.2.1 Elevation requirements. 1. Buildings and structures in flood hazard areas, including flood hazard areas designated as Coastal A Zones, shall have the lowest floors elevated to or above the base flood elevation. 2. In areas of shallow flooding (AO Zones), buildings and structures shall have the lowest floors (including basement) elevated to a height above the highest adjacent grade of not less than the depth number specified in feet (mm) on the FIRM, or not less than two (2) feet (610 mm) if a depth number is not specified. 3. Basement floors that are below grade on all sides shall be elevated to or above base flood elevation. Exception: Enclosed areas below the design flood elevation, including basements with floors that are not below grade on all sides, shall meet the requirements of Section R322.2.2.~~(4-6-23)T
- ~~p.~~ ~~Delete~~ subparagraph 2.1 of Section ~~R322.2.2~~ Enclosed area below design flood elevation, and replace with the following: 2.1. The total net area of all openings shall be at least one (1) square inch (645 mm<sup>2</sup>) for each square foot (0.093 m<sup>2</sup>) of enclosed area, or the opening shall be designed and the construction documents shall include a statement that the design and installation of the openings will provide for equalization of hydrostatic flood forces on exterior walls by allowing the automatic entry and exit of floodwaters.(4-6-23)T
- ~~qm.~~ ~~Delete~~ Tables R403 Minimum Depth (D) and Width (W) of Crushed Stone Footings (inches), R403.1(1) Minimum Width and Thickness for Concrete Footings for Light-Frame Construction (inches), R403.1(2) Minimum Width and Thickness for Concrete Footings for Light-Frame Construction and Brick Veneer (inches), and R403.1(3) Minimum Width and Thickness for Concrete Footings with Cast-In-Place or Fully Grouted Masonry Wall Construction (inches). ~~Delete.~~(4-6-23)T
- ~~rn.~~ Add the following as Table R403.1:

**TABLE R403.1**  
**MINIMUM WIDTH OF CONCRETE, PRECAST, OR MASONRY FOOTINGS (inches)<sup>a</sup>**

	LOAD-BEARING VALUE OF SOIL (psf)			
	1,500	2,000	3,000	≥ 4,000
<b>Conventional light-frame construction</b>				
1-Story	12	12	12	12
2-Story	15	12	12	12
3-Story	23	17	12	12
<b>4-inch brick veneer over light frame or 8-inch hollow concrete masonry</b>				
1-Story	12	12	12	12
2-Story	21	16	12	12
3-Story	32	24	16	12
<b>8-inch solid or fully grouted masonry</b>				
1-Story	16	12	12	12
2-Story	29	21	14	12
3-Story	42	32	21	16

For SI: 1 inch = 25.4 mm, 1 pound per square foot = 0.0479 kPa.

<sup>a</sup>Where minimum footing width is twelve (12) inches, use of a single wythe of solid or fully grouted twelve (12)-inch nominal concrete masonry units is permitted.(4-6-23)T

~~so.~~ ~~Delete~~ Section R403.1.1. ~~Delete~~ and replace with the following: R403.1.1 Minimum size. Minimum sizes for concrete and masonry footings shall be as set forth in Table R403.1 and Figure R403.1(1). The footing width (W) shall be based on the load bearing value of the soil in accordance with Table R401.4.1. Spread footings shall be at least six (6) inches in thickness (T). Footing projections (P) shall be at least two (2) inches and shall not exceed the thickness of the footing. The size of footings supporting piers and columns shall be based on the tributary load and allowable soil pressure in accordance with Table R401.4.1. Footings for wood foundations shall be in accordance with the details set forth in Section R403.2 and Figures R403.1(2) and R403.1(3).(4-6-23)T

~~tp.~~ ~~Delete~~ Section R602.10. ~~Delete~~ and replace with the following: ~~R602.10 Wall bracing~~. Buildings shall be braced in accordance with this Section or, when applicable Section R602.12, or the most current edition of APA System Report SR-102 as an alternate method. Where a building, or portion thereof, does not comply with one (1) or more of the bracing requirements in this Section, those portions shall be designed and constructed in accordance with Section R301.1.(4-6-23)T

**03. International Existing Building Code.** 2018 Edition.(4-6-23)T

~~04. International Energy Conservation Code.~~ 2018 Edition with the following amendments:  
(4-6-23)T

**04. International Energy Conservation Code – Commercial Provisions.** The 2018 Edition with the following amendments:(\_\_\_\_\_)

a. Add ~~the following as new~~ Section C101.5.2: C101.5.2 Industrial, electronic, and manufacturing equipment. Buildings or portions thereof that are heated or cooled exclusively to maintain the required operating temperature of industrial, electronic, or manufacturing equipment shall be exempt from the provisions of this code. Such buildings or portions thereof shall be separated from connected conditioned space by building thermal envelope assemblies complying with this code.(4-6-23)T

**b.** Add the following Exemptions to section C402.1.1:

i. Exemption 4. Accessory utility and storage buildings and sports practice buildings accessory to A, B, and E occupancies where buildings maintain no heating or cooling or where intermittent heating and cooling systems are installed.

ii. Exemption 5. Buildings for domestic water wells, irrigation wells, sewer pump facilities, and sewer lift station buildings where equipment produces internal heat loads and where intermittent heating or cooling is provided to prevent freezing or overheating of equipment.

~~**b.** Add the following as an exception under Section C402.5 Air leakage—thermal envelope (Mandatory): Exception: For buildings having over fifty thousand (50,000) square feet of conditioned floor area, air leakage testing shall be permitted to be conducted on less than the whole building, provided the following portions of the building are tested and their measured air leakage is area weighted by the surface areas of the building envelope: 1. The entire floor area of all stories that have any spaces directly under a roof. 2. The entire floor area of all stories that have a building entrance or loading dock. 3. Representative above-grade wall sections of the building totaling at least twenty-five percent (25%) of the above-grade wall area enclosing the remaining conditioned space. Floor area tested under subparagraphs 1. or 2. of this exception shall not be included in the twenty-five percent (25%) of above-grade wall sections tested under this subparagraph.(4-6-23)T~~

c. Add the following as exception number 7 under Section C403.5 Economizers (Prescriptive): 7. Unusual outdoor air contaminate conditions – Systems where special outside air filtration and treatment for the reduction and treatment of unusual outdoor contaminants, makes an air economizer infeasible.(4-6-23)T

~~**d.** Delete Table C404.5.1 and replace with the following:~~

<b>TABLE C404.5.1</b>			
<b>PIPING VOLUME AND MAXIMUM PIPING LENGTHS</b>			
<b>NOMINAL PIPE SIZE (inches)</b>	<b>VOLUME (liquid ounces per foot length)</b>	<b>MAXIMUM PIPING LENGTH (feet)</b>	
		<b>Public lavatory faucets</b>	<b>Other fixtures and appliances</b>
1/4	0.33	34	50
5/16	0.5	N/A—non standard size	50
3/8	0.75	47	50
1/2	1.5	40	43
5/8	2	7	32

3/4	3	5	24
7/8	4	N/A – non-standard size	46
4	5	3	13
4-1/4	8	2	8
4-1/2	11	4	6
2-or-larger	18	4	4

For SI: 1 inch = 25.4 mm; 1 foot = 304.8 mm; 1 liquid ounce = 0.030 L; 1 gallon = 128 ounces.(4-6-23)T

**05. International Energy Conservation Code – Residential Provisions.** The 2018 Edition with the following amendments:( )

**a.** R202 General Definitions. Add the following to the definition of “Conditioned Space”: This definition shall not apply to garage spaces or other similar spaces where heating or cooling is installed for frost protection or intermittent use.  
 ( )

**eb.** ~~Delete the rows in~~ Table R402.1.2 Insulation and Fenestration Requirements by Component. ~~Delete the rows in~~ for climate zones “5 and Marine 4” and “6” and replace with the following:

TABLE R402.1.2 INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT <sup>a</sup>										
Climate Zone	Fenestration U- Factor <sup>b</sup>	Skylight U-factor <sup>b</sup>	Glazed Fenestration SHGC <sup>b, e</sup>	Ceiling R-Value	Wood Frame Wall R-Value	Mass Wall R-Value <sup>i</sup>	Floor R-Value	Basement <sup>c</sup> Wall R-Value	Slab <sup>d</sup> R-Value & Depth	Crawlspace <sup>c</sup> Wall R-Value
5	0.32	0.55	NR	38	20 or 13+5 <sup>h</sup>	13/17	30 <sup>g</sup>	15/19	10, 2 ft	15/19
6	0.30	0.55	NR	49	22 or 13+5 <sup>h</sup>	15/20	30 <sup>g</sup>	15/19	10, 4 ft	15/19

(4-6-23)T

**fc.** ~~Add the following as footnote<sup>k</sup> to the title of~~ Table R402.1.2 - Insulation and Fenestration Requirements by Component. Add the following as footnote<sup>k</sup> to the Table title: <sup>k</sup>. For residential log home building

thermal envelope construction requirements see Section R402.6.(4-6-23)T

**gd.** ~~Delete the rows in~~ Table R402.1.4 **Equivalent U-Factors.** ~~Delete the rows in for~~ climate zones “5 and Marine 4” and “6” and replace with the following:

TABLE R402.1.4 EQUIVALENT U-FACTORS <sup>a</sup>								
Climate Zone	Fenestration U-factor	Skylight U-factor	Ceiling U-factor	Frame Wall U-factor	Mass Wall U-factor <sup>b</sup>	Floor U-factor	Basement Wall U-factor	Crawlspace Wall U-factor
5	0.32	0.55	0.030	0.060	0.082	0.033	0.050	0.055
6	0.30	0.55	0.026	0.057	0.060	0.033	0.050	0.055

(4-6-23)T

**h.** ~~Delete Section R402.4.1 and replace with the following: R402.4.1 Building thermal envelope. 1. Until June 30, 2021, the building thermal envelope shall comply with Sections R402.4.1.1 (Installation) and either Section R402.4.1.2 (Testing) or Section R402.4.1.3 (Visual inspection). 2. Effective July 1, 2021, the building thermal envelope of a minimum of twenty percent (20%) of all new single family homes constructed by each builder shall comply with Section R402.4.1.1 (Installation) and Section R402.4.1.2 (Testing). The authority having jurisdiction may: 2.1. Determine how to enforce this requirement, starting with the fifth house and continuing with each subsequent fifth house. 2.2. Waive this requirement if significant testing indicates the five (5) air changes per hour (ACH) requirement is consistently being met or exceeded (resulting in a lower ACH). 2.3. Grant exceptions to this requirement in rural areas where testing equipment is not available or cost effective. 3. Effective July 1, 2021, the building thermal envelope of eighty percent (80%) of all new single family homes constructed by each builder shall comply with Section R402.4.1.1 (Installation) and either Section R402.4.1.2 (Testing) or Section R402.4.1.3 (Visual inspection). 4. The sealing methods between dissimilar materials shall allow for differential expansion and contraction.~~ (4-6-23)T

**i.** ~~Delete Section R402.4.1.1 and replace with the following: R402.4.1.1 Installation. The components of the building thermal envelope as listed in Table R402.4.1.1 shall be installed in accordance with the manufacturer’s instructions and the criteria listed in Table R402.4.1.1, as applicable to the method of construction.~~ (4-6-23)T

**j.** ~~Delete Section R402.4.1.2 and replace with the following: R402.4.1.2 Testing. Testing building envelope tightness and insulation installation shall be considered acceptable when tested air leakage is less than five (5) air changes per hour (ACH) when tested with a blower door at a pressure of 33.5 psf (50 Pa). Testing shall occur after rough in and after installation of penetrations of the building envelope, including penetrations for utilities, plumbing, electrical, ventilation and combustion appliances. Testing shall be conducted in accordance with RESNET/ICC 380, ASTM E 779 or ASTM E 1827 and reported at a pressure of 0.2 inch w.g. (50 Pascals). During testing: 1. Exterior windows and doors, fireplace and stove doors shall be closed, but not sealed. 2. Dampers shall be closed, but not sealed, including exhaust, intake, makeup air, backdraft and flue dampers. 3. Interior doors shall be open. 4. Exterior openings for continuous ventilation systems and heat recovery ventilators shall be closed and sealed. 5. Heating and cooling system(s) shall be turned off. 6. HVAC ducts shall not be sealed. 7. Supply and return registers shall not be sealed.~~ (4-6-23)T

**ke.** ~~Add the following as Section R402.4.1.32. -R402.4.1.3~~ **Add the following exception:** Visual inspection. **The Permit Holder will determine at the time of permit application the method of determining B** building envelope tightness, ~~and insulation installation~~ **A visual inspection** shall be considered acceptable **in lieu of testing** when the items listed in Table R402.4.1.1, applicable to the method of construction, are field verified. ~~Where required~~

~~by code official or approved party independent from the installer of the insulation shall inspect the air barrier and insulation.~~(4-6-23)T

**if.** ~~Add the following as~~ **Add new** Section R402.6: R402.6 Residential log home thermal envelope. Residential log home construction shall comply with Section R401 (General), Section R402.4 (Air leakage), Section R402.5 (Maximum fenestration U-factor and SHGC), Section R403.1 (Controls), the mandatory sections of Sections R403.3 through R403.9, Section R404 (Electrical Power and Lighting Systems), and either 1., 2., or 3. as follows: 1. Sections R402.2 through R402.3, Section R403.3.1 (Insulation), Section R404.1 (Lighting equipment), and Table R402.6 (Log Home Prescriptive Thermal Envelope Requirements by Component). 2. Section R405 (Simulated Performance Alternative). 3. REScheck (U.S. Department of Energy Building Codes Program).(4-6-23)T

**mg.** Add ~~the following as~~ **new** Table R402.6:

<b>TABLE R402.6</b>									
<b>LOG HOME PRESCRIPTIVE THERMAL ENVELOPE REQUIREMENTS BY COMPONENT</b>									
For SI: 1 foot = 304.8 mm.									
Climate Zone	Fenestration U-factor <sup>a</sup>	Skylight U-factor	Glazed Fenestration SHGC	Ceiling R-value	Min. Average Log Size In Inches	Floor R-value	Basement Wall R-value <sup>d</sup>	Slab R-value & Depth <sup>b</sup>	Crawl Space Wall R-value <sup>d</sup>
5, 6 - High efficiency equipment path <sup>c</sup>	0.32	0.60	NR	49	5	30	15/19	10, 4 ft.	10/13
5	0.32	0.60	NR	49	8	30	10/13	10, 2 ft.	10/13
6	0.30	0.60	NR	49	8	30	15/19	10, 4 ft.	10/13

<sup>a</sup>The fenestration U-factor column excludes skylights. The SHGC column applies to all glazed fenestration.

<sup>b</sup>R-5 shall be added to the required slab edge R-values for heated slabs.

<sup>c</sup>90% AFUE natural gas or propane, 84% AFUE oil, or 15 SEER heat pump heating equipment (zonal electric resistance heating equipment such as electric base board electric resistance heating equipment as the sole source for heating is considered compliant with the high efficiency equipment path).

<sup>d</sup>“15/19” means R-15 continuous insulated sheathing on the interior or exterior of the home or R-19 cavity insulation at the interior of the basement wall. “15/19” shall be permitted to be met with R-13 cavity insulation on the interior of the basement wall plus R-5 continuous insulated sheathing on the interior or exterior of the home. “10/13” means R-10 continuous insulated sheathing on the interior or exterior of the home or R-13 cavity insulation at the interior of the basement wall.

(4-6-23)T

~~**n.** Delete Section R403.3.1 and replace with the following: R403.3.1 Duct insulation requirements. Supply and return ducts located in an attic space shall have an R-value of not less than R-8.~~(4-6-23)T

~~o. Delete Sections R403.3.6 and R403.3.7.(4-6-23)T~~

~~p. Delete Section R403.5.3 and replace with the following: R403.5.3 Hot water pipe insulation (Prescriptive). Insulation for hot water piping with a thermal resistance, R-value, of not less than R-3 shall be applied to the following: 1. Piping serving more than one (1) dwelling unit. 2. Piping located outside the conditioned space. 3. Piping located under a floor slab. 4. Buried piping. 5. Supply and return piping in recirculation systems other than demand recirculation systems.(4-6-23)T~~

~~q. Delete Section R404.1 and replace with the following: R404.1 Lighting equipment (Mandatory). A minimum of seventy five percent (75%) of the lamps in permanently installed lighting fixtures shall be high efficacy lamps or a minimum of seventy five percent (75%) of the permanently installed lighting fixtures shall contain only high efficacy lamps.(4-6-23)T~~

~~r. Delete Section R406.3 and replace with the following: R406.3 Energy Rating Index. The Energy Rating Index (ERI) shall be determined in accordance with RESNET/ICC-301. Energy used to recharge or refuel a vehicle used for transportation on roads that are not on the building site shall not be included in the ERI reference design or the rated design.(4-6-23)T~~

~~s. Delete Table R406.4 and replace with the following:~~

~~**Table R406.4—Maximum Energy Rating Index**~~

<del>Climate Zone</del>	<del>Energy Rating Index<sup>a</sup></del>
<del>5</del>	<del>68</del>
<del>6</del>	<del>68</del>

~~<sup>a</sup> Where on-site renewable energy is included for compliance using the ERI analysis of Section R406.4, the building shall meet the mandatory requirements of Section R406.2, and the building thermal envelope shall be greater than or equal to the levels of efficiency and SHGC in Table R402.1.2 or Table R402.1.4 of the 2015 International Energy Conservation Code.(4-6-23)T~~

~~**05. References to Other Codes.** Where any provisions of the codes that are adopted in this Section make reference to other construction and safety-related model codes or standards which have not been adopted by the involved authority having jurisdiction, to the extent possible, such reference should be construed as pertaining to the equivalent code or standard that has been duly adopted by such jurisdiction.(4-6-23)T~~

~~**005.—025.(RESERVED)**~~

~~**026002. DEFINITIONS.**~~

~~The terms defined in this section have the following meaning for all parts of this chapter, unless the context clearly indicates another meaning:(4-6-23)T~~

~~**01. Listed.** Equipment or other building components included within a current list published by a recognized listing agency that maintains periodic inspection on current production of listed equipment or other building components and whose listing states either that the equipment or component complies with recognized standards or has been tested and determined to be suitable for the use intended.(4-6-23)T~~

~~**021. Listing Agency.** A person, firm, association, partnership or corporation which is in the business of listing or labeling and which maintains a periodic inspection program on current production of listed materials, and which makes available, not less frequently than annually, a published report of such listing in which specific information is included that the product has been tested to nationally approved standards and found safe for use in a~~



specified manner.(4-6-23)T

**032. Minor Alteration.** The following definition is used for the purpose of administering annual permits.(4-6-23)T

**a.** Minor alterations shall include, but are not limited to, the following: partition walls constructed within a defined room; relocation of or existing openings or installation of new doors and windows in non-load bearing walls and not in construction meant to compartmentalize fire; window replacement in unaltered existing openings; roof repairs involving installation of less than one hundred (100) square feet of new roof covering; and new suspended ceilings that are not part of a required fire resistive assembly.(4-6-23)T

**b.** Minor alterations shall not include: work that alters the fire resistive characteristics of the building or fire suppression systems; work that creates new openings in construction meant to compartmentalize fire such as fire walls, fire barriers, fire partitions, smoke barriers, smoke partitions, horizontal assemblies, shaft enclosures, stair enclosures; work that increases the floor area or height of the building; work that changes the structural load path of the building for gravity or horizontal loads; work that reduces the thermal resistant capacity of the building envelop; changes in the occupancy classification of the building or space; increases in the floor loads.(4-6-23)T

**027500. PERMITS AND PLAN REVIEW.**

**01. Building Permits.** Building permits shall be obtained from the Division prior to the construction of structures governed by the act or rules promulgated by the Board.(4-6-23)T

**021. Annual Permit.** In lieu of an individual permit for each minor alteration to an already approved building, the Division may issue an annual permit upon application therefor to any state agency or state governmental organization regularly employing one (1) or more qualified trade persons in the building, structure or on the premises or campus owned or operated by the applicant for the permit. The agency to whom an annual permit is issued shall keep a detailed record of alterations made under such annual permit. The Division shall be allowed access to such records at all times upon request or such records shall be filed with the Division as designated. The permit holder shall request inspections and make the work accessible for inspection as required by the adopted codes and this rule herein.(4-6-23)T

**028. PLAN REVIEW.**

**01. Jurisdiction.** The Division shall have exclusive jurisdiction and authority to conduct plan reviews of the construction, additions, repairs, and occupancy of all state buildings of any agency of government at the state level for any purposes or occupancy regardless of the source of funding for such construction, addition, repair, or occupancy.(4-6-23)T

**02. Plans Specifications.** Construction documents shall be dimensioned and drawn upon suitable material. Plans may be submitted electronically or in digital format as approved by the Division. Drawing format shall be equivalent to the paper format. Construction documents shall be of sufficient clarity to indicate the location, nature, and extent of the work proposed and show in detail that the installations will conform to the provisions of the building code and applicable laws, rules, and policies of the Division.(4-6-23)T

**032. Plans Not Required.** Plans are not required for group U occupancies of Type V conventional light-frame wood construction.(4-6-23)T

**04. Addenda and Change Orders.** Documents enforcing changes or modifications. Addenda, contract change orders, changes in work requests, and other similar written documents enforcing changes or modifications to plans or specifications, already approved by the Division, which addenda, change orders, or change in work requests deal with structural or fire resistance changes, or such other changes affecting code conformance, shall be submitted to the Division for approval. The use of the terms “addenda,” “change orders,” and “changes in work requests” are not be limited exclusively to such phraseology, but may include such other language used in the professions which essentially have the same meaning.(4-6-23)T

**029. FEES.**

**03. Fees.**

**01a.** Technical Service Fee. One hundred dollars (\$100) per hour.(4-6-23)T

**02b.** Building Permit Fees.

The determination of value or valuation will be made by the administrator and includes the total value of all construction work for which a permit is issued.

<b>TABLE 1-A – BUILDING PERMIT FEES</b>	
<b>Total Valuation</b>	<b>Fee</b>
\$1 to \$500	= \$23.50
\$501 to \$2,000	= \$23.50 for the first \$500 plus \$3.05 for each additional \$100, or fraction thereof, to and including \$2,000
\$2,001 to \$25,000	= \$69.25 for the first \$2,000 plus \$14 for each additional \$1,000, or fraction thereof, to and including \$25,000
\$25,001 to \$50,000	= \$391.75 for the first \$25,000 plus \$10.10 for each additional \$1,000, or fraction thereof, to and including \$50,000
\$50,001 to \$100,000	= \$643.75 for the first \$50,000 plus \$7 for each additional \$1,000, or fraction thereof, to and including \$100,000
\$100,001 to \$500,000	= \$993.75 for the first \$100,000 plus \$5.60 for each additional \$1,000, or fraction thereof, to and including \$500,000
\$500,001 to \$1,000,000	= \$3,233.75 for the first \$500,000 plus \$4.75 for each additional \$1,000, or fraction thereof, to and including \$1,000,000
\$1,000,001 to \$5,000,000	= \$5,608.75 for the first \$1,000,000 plus \$3.65 for each additional \$1,000, or fraction thereof, to and including \$5,000,000
\$5,000,001 to \$10,000,000	= \$20,208.75 for the first \$5,000,000 plus \$2.75 for each additional \$1,000, or fraction thereof, to and including \$10,000,000
\$10,000,001 and up	= \$33,958.75 for the first \$10,000,000 plus \$2 for each additional \$1,000, or fraction thereof

(4-6-23)T

**03c.** Fees for Annual Permits. A fee for inspections performed on annual permits shall be charged at the rate of one hundred dollars (\$100) per ~~hour~~ inspection. The Division shall bill the applicant for annual permits and failure of the applicant to pay the fee within sixty (60) days may result in cancellation of the annual permit.

(4-6-23)T

**04d.** Plan Review Fees. Plan review fees shall be charged at an hourly rate of one hundred dollars (\$100) per hour up to a maximum of sixty-five percent (65%) of the calculated building permit fee with a minimum required fee of forty percent (40%) of the calculated building permit fee. All requests for plan review services shall ~~at such time~~ be accompanied by a payment in the amount of at least forty percent (40%) of the calculated building permit fee. Upon completion of the plan review, any additional fees, above the minimum required, are due to the Division by the

requesting party.(4-6-23)T

~~05. Refund of Plan Review Fees. Plan review fees are non-refundable.(4-6-23)T~~

~~030. RIGHT OF ENTRY.~~

~~Whenever necessary to make an inspection to enforce any of the provisions of Title 39, Chapters 40 and 41, Idaho Code, or whenever the administrator or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises, any condition which makes such building or premises unsafe, the administrator or his authorized representative shall enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Division by Title 39, Chapters 40 and 41, Idaho Code; provided that if such building or premises is occupied, he shall first present proper credentials and demand entry; and if such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the administrator shall have recourse to every remedy provided by law to secure entry.(4-6-23)T~~

~~031. WORK PROCEEDING WITHOUT PERMIT OR APPROVAL.~~

~~Where any work for which a permit or approval, to include plan or system approval, is required by these rules, or by the codes enumerated in Title 39, Chapter 41, Idaho Code, is started or proceeded prior to obtaining said approval or permit, and after notice to such person doing or causing such work to be done, and such person continues or causes to continue such work, the fees specified in these rules shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of Title 39, Chapter 41, Idaho Code, or these rules in the execution of the work nor from any other penalties prescribed by law.(4-6-23)T~~

~~032. STOP WORK ORDERS.~~

~~Whenever any work is being done contrary to any provisions of the codes enumerated in Title 39, Chapter 41, Idaho Code, or contrary to these rules, the administrator or his authorized representative may order the work stopped by notice in writing to any persons engaged in such work, and any such persons shall forthwith stop such work until authorized by the administrator or his representative to proceed with the work. Stop work orders shall be accompanied by a notice of violation that states the specific violation and code reference.(4-6-23)T~~

~~033.—037.(RESERVED)~~

**038200. INTEGRATED DESIGN AND FUNDAMENTAL COMMISSIONING OF PUBLIC SCHOOL FACILITIES.**

~~01. Definitions. The following definitions are intended to supplement, and should be read in conjunction with the definitions contained in Section 33-356, Idaho Code.(4-6-23)T~~

~~a. Fundamental Commissioning. A quality focused process for enhancing the delivery of a project. It makes use of a qualified third party employed directly by the building owner.(4-6-23)T~~

~~b. Integrated Design. Integrated design refers to a collaborative design effort in which each of the individual architectural or engineering professionals focuses on the whole building approach, with an emphasis on optimizing the building's performance, environmental sustainability, and cost savings, to include climate, use, loads and systems resulting in a more comfortable and productive environment, and a building that is more energy efficient than would be realized using current best practices.(4-6-23)T~~

~~021. Technical and Educational Information. Technical and educational information related to integrated design and fundamental commissioning in the form of the American Institute of Architects Integrated Project Delivery Guide; Portland Energy Conservation, Inc. (PECI) Commissioning Guides; ASHRAE Guideline 0-2005-The Commissioning Process; and the Northwest Energy Efficiency Alliance Integrated Design Special Focus on Energy Performance Guide is available at on the Division's office locations including 1090 E. Watertower St., Meridian, Idaho 83642, and 1250 Ironwood Dr., Ste. 220, Coeur d'Alene, Idaho 83814. A building commissioned under the prescriptive approaches defined by any of the above-named national organizations is deemed to have completed the Fundamental Commissioning process.(4-6-23)T~~

~~032. Commissioning Agents. The Division has compiled and made available for public examination a~~

list of all known third party building commissioning agents in Idaho and its contiguous states. The Division has ensured that all such commissioning agents appearing on this list have been certified by the Building Commissioning Association (BCA) or other similar certifying entity.(4-6-23)T

**043. Annual Optimization Review.**(4-6-23)T

~~a. A public school building that qualifies for the school building replacement value calculation pursuant to Section 33-356(5)(a), Idaho Code, shall undergo an annual optimization review each year following the first year of operations that the involved school district seeks to qualify such building for the building replacement value calculation. (4-6-23)T~~

~~ba. The systems within a building required to undergo annual optimization review, as well as any relevant measuring criteria for such systems, shall be formulated by the third party commissioning agent that performs the initial fundamental commissioning. The school district shall be provided with a written report from the commissioning agent identifying the systems which will be subject to the annual optimization review along with any other requirements. The third-party commissioning agent who performed the initial fundamental commissioning for a public school building must provide the school district with a written report identifying the systems which will be subject to the Idaho Code Section 33-356 annual optimization review and identifying the system requirements and/or other relevant measuring criteria.(4-6-23)T~~

~~e. The report written report required above in Paragraph 038.04.b. of these rules shall, at a minimum include, but is not limited to, at least the following:(4-6-23)T~~

~~i. Verification that the heating, ventilation, and air conditioning (HVAC) systems, controls, dampers, valves, sensors and other equipment used to control the system are functioning as they were at the commissioning of the building.:(4-6-23)T~~

~~ii. Verification that the lighting controls are functioning as they were at the commissioning of the building. and (4-6-23)T~~

~~iii. The requirement that any changes made to any of the controls contained on the agent's list after the initial commissioning be re-set back to the commissioned settings unless it can be demonstrated that the new settings result in greater energy efficiency.(4-6-23)T~~

~~db. The annual optimization review shall be performed by persons qualified to make the required determinations and adjustments.(4-6-23)T~~

~~ec. Following the annual optimization review, the school district shall submit to the Division written verification indicating (1)that the systems identified by the commissioning agent, including those identified in this Section are functioning as they were at the initial commissioning; and (2). Such written verification shall also identifying the persons performing the optimization and their qualifications.(4-6-23)T~~

**055. Commissioning Anniversary Date.** The date upon which the commissioning agent provides the school district with the required written report described in Paragraph 038.04.b. of these rules shall be the commissioning anniversary date for purposes of this Section. If a school district seeks to qualify a building for the building replacement value calculation, the annual optimization review shall be performed within thirty (30) days of the annual commissioning anniversary date following the first year the building is in operation. The written verification required by Paragraph 038.03.e. of these rules is due to the Division not later than sixty (60) days after the annual commissioning anniversary date.(4-6-23)T

**063. Fundamental Building Commissioning Requirements.**(4-6-23)T

**a.** School districts seeking to qualify a building for the building replacement value calculation shall engage a building commissioning agent.(4-6-23)T

**b.** The commissioning agent must document the owner's requirements for each commissioned system in the facility. All HVAC and controls systems, duct work and piping, renewable and alternative technologies,

lighting controls and day lighting, waste heat recovery, and any other advanced technologies incorporated in the building must be commissioned. Building envelope systems must also be verified. The owner's requirements for these systems may include efficiency targets and other performance criteria such as temperature and lighting levels that will define the performance criteria for the functional performance testing that occurs prior to acceptance.(4-6-23)T

**c.** The commissioning agent shall include commissioning requirements in the project construction documents. This includes the scope of commissioning for the project, the systems to be commissioned, and the various requirements related to schedule, submittal reviews, testing, training, O & M manuals, and warranty reviews. (4-6-23)T

**d.** The commissioning agent shall develop and utilize a commissioning plan. This plan must include an overview of the commissioning process for the project, a list of commissioned systems, primary commissioning participants and their roles, a communication and management plan, an outline of the scope of commissioning tasks, a list of work products, a schedule, and a description of any commissioning testing activities.(4-6-23)T

**e.** The commissioning agent must submit a report to the owner once the commissioning plan has been executed. (4-6-23)T

~~039. — 999.(RESERVED)~~

# IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

## 24.39.31 – RULES FOR FACTORY BUILT STRUCTURES

### DOCKET NO. 24-3931-2301 (ZBR CHAPTER REWRITE, FEE RULE)

#### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, and Sections 39-4003, 39-4302, 44-2102, 44-2104, 44-2201, 44-2202, 67-2614, 67-9406, and 67-9409, Idaho Code.

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

<b>Wednesday, September 20, 2023, 9:00 a.m. MT</b>
<b>Division of Occupational and Professional Licenses Chinden Campus Building 4 11341 W. Chinden Blvd., Bldg. #4 Boise, ID 83714</b>
<b>Telephone and web conferencing information will be posted on: <a href="https://dopl.idaho.gov/calendar/">https://dopl.idaho.gov/calendar/</a> and <a href="https://townhall.idaho.gov/">https://townhall.idaho.gov/</a></b>

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

**DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Factory Built Structures Advisory Board is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders, the proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter and to use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and Executive Order 2020-01.

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

The fees for applications, licenses, and reinstatement as designated in Rule 400 of these proposed rules are authorized in Section 44-2104, Idaho Code. None of these fees are being changed as a result of this rulemaking or since being previously reviewed by the Idaho legislature.

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

This rulemaking is not anticipated to have any negative fiscal impact on the State General Fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted under Docket No. 24-ZBRR-2301. The (Second) Omnibus Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 7, 2023 Idaho Administrative Bulletin, [Vol. 23-6, pp. 75-76](#).

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

The Idaho Manufactured Home Installation Standard (January 1, 2018 edition).

The materials cited are incorporated by reference because they would be unduly cumbersome, expensive, or otherwise inexpedient to republish all or in part. The materials cited are codes, standards, or rules adopted by a nationally recognized organization or association.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this proposed rule, contact Katie Stuart, Administration Bureau Chief, at (208) 577-2489. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2023.

DATED this 8th day of August, 2023.

Katie Stuart  
Bureau Chief  
11341 W. Chinden Blvd., Bldg. #4  
Boise, ID 83714  
Phone: (208) 577-2489  
Email: [katie.stuart@dopl.idaho.gov](mailto:katie.stuart@dopl.idaho.gov)  
Website: <https://dopl.idaho.gov/>

**THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 24-3931-2301**  
**(ZBR Chapter Rewrite)**

*\*Note – Due to extensive reorganization of this ZBR chapter, the rule text below is presented as clean text without showing amendments in legislative format. A redline copy provided by the agency has been included at the end of the docket for transparency and can be utilized to track all edits used to formulate the proposed rule.*

**24.39.31 – RULES FOR FACTORY BUILT STRUCTURES**

**000. LEGAL AUTHORITY.**

These rules are promulgated pursuant to Sections 39-4003, 39-4302, 44-2102, 44-2104, 44-2201, and 44-2202, Idaho Code. ( )

**001. SCOPE.**

These rules govern the manufacture and installation of modular buildings in Idaho, apply to persons engaged in the business of manufacturing, selling, or installing manufactured or mobile homes for purposes of human habitation in Idaho, apply to disputes between persons licensed as manufacturers, retailers, and installers of manufactured homes, and apply to the installation of manufactured or mobile homes in Idaho. ( )

**002. INCORPORATION BY REFERENCE.**

The Idaho Manufactured Home Installation Standard (January 1, 2018 edition), is hereby adopted and incorporated by reference and is available on the DOPL website: <https://dopl.idaho.gov>. ( )

**003. DEFINITIONS.**

The terms defined in this section have the following meaning, unless the context clearly indicates another meaning.

( )

**01. Alterations to Manufactured Homes.** The replacement, addition, and modification, or removal of any equipment or installation after sale by a manufacturer to a retailer but prior to sale by a retailer to a purchaser which may affect the construction, fire safety, occupancy, plumbing, heat-producing or electrical system. It does not include the addition of an appliance requiring “plug-in” to an electrical receptacle, which appliance was not provided with the manufactured home by the manufacturer, if the rating of the appliance does not exceed the rating of the receptacle to which it is connected.

( )

**02. Deceptive Practice.** Intentionally publishing or circulating any advertising concerning mobile or manufactured homes which:

( )

a. Is misleading or inaccurate in any material respect; ( )

b. Misrepresents any of the products or services sold or provided by a manufacturer, manufactured/mobile home retailer, or installation company. ( )

**03. Insignia.** A label or tag issued by the Division to indicate compliance with the codes, standards, rules, and regulations established for Modular Buildings and Commercial Coaches. ( )

**04. Installation.** The complete operation of fixing in place a modular building or manufactured or mobile home for occupancy. ( )

**05. Principal Place of Business.** The primary physical location at which the business of a manufactured home retailer is lawfully conducted. Each of the following requirements must be met to qualify as the principal place of business: ( )

a. The business of the manufactured or mobile home retailer is lawfully conducted here; ( )

b. The office or offices of the retailer is or are located here; ( )

c. The public may contact the retailer here; ( )

d. The offices are accessible and open to the public; and ( )

e. The greatest portion of the retailer’s business is conducted here. The books and other records of a retailer must be kept and maintained at the retailer’s principal place of business and be open to inspection during normal business hours by any authorized agent of the Division. Moreover, there must be displayed on the exterior a sign permanently affixed to the land or building with letters providing the business name of the retailer clearly visible to the major avenue of traffic. ( )

**06. Used Manufactured Home or Mobile Home.** A manufactured home or mobile home, respectively, which has been: ( )

a. Sold, rented, or leased and occupied prior to or after the sale, rental, or lease; or ( )

b. Registered with or been the subject of a certificate of title issued by the Idaho Department of Transportation or the appropriate authority of any state, the District of Columbia, or foreign state or country. ( )

**004. -- 099. (RESERVED)**

**100. LICENSURE.**

**01. Manufactured/Mobile Home Licensure.** ( )



a. Minimum Age Requirement. No license will be issued to a person under eighteen (18) years of age at the time of license application. ( )

b. Designated License Holder. Any applicant for a license under who is not a natural person must designate a natural person to be license holder and represent the corporation, partnership, trust, society, club, association, or other organization for all licensing purposes under these rules including, but not limited to, testing and education. No issued licenses are transferable. ( )

i. Any person represents one (1) applicant only, and must immediately notify the Division in writing if his working relationship with the applicant has been terminated. The license will be issued in the name of the designated license holder with the name of the organization he represents also noted on the license. The license holder is considered by the Division to be the licensee. ( )

ii. The applicant agrees by acceptance of the designation that the designated person acts as agent of the applicant for all purposes under Title 44, Chapters 21 and 22, Idaho Code, and all rules promulgated thereunder. ( )

iii. Any license issued to a manufactured/mobile home retailer must be posted in a conspicuous place on the business premises of the employer for whom the holder of the license is licensed. The license of a manufacturing facility or branch office must also be posted in a conspicuous place at the location licensed. ( )

iv. To engage in business in the state of Idaho, each manufacturer must be licensed by the Division. ( )

v. The Division requires as a condition of licensing any information it deems necessary for each location where a manufactured/mobile home retailer maintains a branch office. The use of a mobile home park or a state sales office by a licensee for the sale or offering for sale of manufactured/mobile homes constitutes the maintenance of a branch office. A retailer must obtain a license from the Division to operate the branch office. ( )

vi. Applicants for a manufacturer's, retailers, or installer's license must furnish: Any proof the Division may deem necessary that the applicant is a manufacturer, retailer, or installer; any proof the Division may require that the applicant has a principal place of business; In the case of a retailer in new manufactured homes, an instrument in the form prescribed by the Division executed by or on behalf of the manufacturer certifying that the applicant is an authorized franchise retailer for the make concerned; The fee and proof of the bond required by Section 44-2103, Idaho Code; and Proof of passing the examination required by these rules, as applicable. ( )

vii. Within thirty (30) days after receipt of a completed application, the Division will issue or deny the license. ( )

viii. Each license is valid for a period of one (1) year from the date of issuance. ( )

**02. Proof of Education Required.** ( )

a. Satisfactory Proof for Initial Application Submission. An application for a license as a manufactured/mobile home installer must include proof satisfactory to the Division that the applicant has completed the following number of hours of initial education in order to be approved: ( )

i. Installers and retailers who are installers: eight (8) hours. ( )

ii. The course of initial education must be approved by the Division and must include information relating to the provisions of these rules, Title 44, Chapters 21, Idaho Code, and the National Manufactured Housing Construction and Safety Standards Act of 1974. ( )

b. Satisfactory Proof for License Renewal. The Division will not renew any installer license, or

retailer license of any retailer who is also an installer, issued pursuant to Title 44, Chapters 21 or 22, Idaho Code, or these rules until the licensee has submitted proof satisfactory to the Division that he has, during the three (3) years immediately preceding the renewal of the license, completed at least eight (8) hours of continuing education. ( )

i. The course of continuing education must be approved by the Division and include information germane to the profession. ( )

**03. Examination Of Applicant For License. ( )**

a. Required Examinations. The Division requires a written examination of each applicant for an initial license as a manufactured/mobile home retailer or installer. ( )

b. Examination and Grade. No license will be issued unless an applicant receives a final grade of seventy percent (70%) or higher. ( )

**101. -- 299. (RESERVED)**

**300. DISCIPLINARY ACTION AGAINST LICENSEES, CIVIL PENALTIES, AND CONSUMER COMPLAINT AND DISPUTE RESOLUTION.**

**01. The Division may deny, suspend, refuse to renew, or revoke any license or reissue the license subject to reasonable conditions upon any of the following grounds: ( )**

a. Failure to Provide Business Name. Failure to include in any advertising the name of the licensed retailer or installer. ( )

b. Poor Workmanship. Performing workmanship which is grossly incompetent or repeatedly below the standards adopted by Title 44, Chapters 21 and 22, the provisions of these rules, or the National Manufactured Housing Construction and Safety Standards Act of 1974. ( )

c. Failure to Honor Warranties. Failure to honor any warranty or other guarantee given by a licensee for construction, workmanship, or material as a condition of securing a contract, or of selling, leasing, reconstructing, improving, repairing, or installing any manufactured/mobile home. ( )

d. Failure to Respond to Notice. Failure to respond to a notice served by the Division. ( )

e. Failure to Permit Access to Documentary Materials. Failure or refusing to permit access by the Division to relevant documentary materials after being requested to do so by the Division. ( )

f. Conviction of Misdemeanor. Conviction of a misdemeanor for violation of any of the provisions of Title 44, Chapters 21 or 22, Idaho Code. ( )

g. Conviction of Felony. Conviction or withheld judgment for a felony in this state, any U.S. territory, or country. ( )

h. Violation of Permit or Inspection Requirements. To knowingly violate any permit or inspection requirements of any city or county of this state. ( )

**02. Modular Civil Penalties.** The following acts subject the violator to penalties of not more than two hundred dollars (\$200) for the first offense and not more than one thousand dollars (\$1,000) for each offense thereafter: ( )

a. Installation. Any person who installs a modular building on a building site in this state without first receiving approval and securing to the structure insignia evidencing such approval from the Division. ( )

b. Modification. Any person who in any way modifies or alters a modular building prior to its initial

occupancy which has previously been approved by the Division without first having received approval to do so from the Division. ( )

**03. Manufactured Home Civil Penalties.** Except as otherwise provided, the following acts subject the violator to penalties of not more than five hundred dollars (\$500) for the first offense and not more than one thousand dollars (\$1,000) for each offense thereafter: ( )

**a. Industry Licensing.** Except as provided for by Section 44-2106, Idaho Code, any person who engages in the business of a manufacturer, retailer, or installer, as defined in Section 44-2101A, Idaho Code, without being duly licensed by the Division. ( )

**b. Deceptive Practice.** Any retailer or installer who intentionally publishes or circulates any advertising that is misleading or inaccurate in any material respect or that misrepresents any of the products or services sold or provided by a manufacturer, retailer, or installer. ( )

**c. Dealing with Stolen Manufactured or Mobile Homes.** Any person who knowingly purchases, sells, or otherwise acquires or disposes of a stolen manufactured or mobile home is subject to a civil penalty of not more than one thousand dollars (\$1,000). ( )

**d. Failure to Maintain a Principal Place of Business.** Any person who is a retailer duly licensed by the Division and who fails to maintain a principal place of business within Idaho. ( )

**e. Violation of Rules and Statutes.** Any person who knowingly violates these rules or Title 44, Chapters 21 or 22, Idaho Code. ( )

**f. Gross Violation.** In case of continued, repeated, or gross violations of these rules, a license revocation may be initiated for licensed individuals under Title 44, Chapter 21, Idaho Code. Non-licensed individuals are subject to prosecution by the appropriate jurisdiction under Idaho law. ( )

**04. Consumer Complaints and Dispute Resolution.** ( )

**a. Site Inspection.** The Division may perform a site inspection, based on the nature of a complaint or upon request of the complainant in accordance with HUD. ( )

**b. Fees.** A charge for mileage to and from the inspection site, plus an hourly charge for the time spent conducting the inspection, is assessed the manufacturer, installer, or retailer if a site inspection is made upon a request by the manufacturer, installer, or retailer, and does not involve a serious defect or imminent safety hazard. ( )

**c. Inspection Report.** Following a site inspection, the inspector will prepare a final report and include photographs. ( )

**d. Action.** A notification letter and copies of the complaint form and investigation findings may be provided to all involved parties and HUD. ( )

**i.** Any Division action, notification and follow-up are completed according to HUD guidelines. ( )

**ii.** If the nature of the complaint pertains to retailer contractual issues or installation problems, a copy of the complaint is to be consolidated with the appropriate Division license files. ( )

**iii.** A Division building inspector will issue a report concerning correction or repair of defects that are a matter of dispute between the homeowner, retailer, installer, or manufacturer. The report will include the likely cause of the defect and identify the party responsible for creating the defect that is in need of correction or repair. ( )

**e.** Decisions. The Administrator will review the inspector's report and set forth the required corrective action and identify the party responsible for such action. The Administrator may initiate a contested case proceeding

if, in his sole discretion, he determines that such a proceeding or further investigation would be of assistance in reaching a decision. The decision must direct the responsible party to complete the required corrective action within specified timelines and consider the needs of the involved parties including, but not limited to, safety, anticipated expense and availability of funds, time of year, and convenience to the parties. ( )

f. Appeals. Decisions of the administrator are final orders for purposes of appeal. ( )

g. Informal Disposition -- Arbitration -- Mediation. Unless otherwise prohibited by other provisions of law, informal disposition may be made of any complaint by negotiation, stipulation, agreed settlement, and consent order. The parties may agree to enter into binding arbitration or mediation. Informal settlement of matters is to be encouraged. ( )

**301. -- 399. (RESERVED)**

**400. MANUFACTURED/MOBILE HOME LICENSE FEES.**

**01. Fees for Issuance and Renewal of License.** The following fees for the issuance and renewal of a license will be charged: ( )

a. Manufactured/mobile home retailer license: four hundred forty dollars (\$440). Retailers who are also installers will have to pay an installer's license fee to hold both licenses. ( )

b. Manufacturer license: four hundred forty dollars (\$440); ( )

c. Manufactured/mobile home installer license: two hundred twenty dollars (\$220); ( )

**02. Performance Bonding Requirements.** Application for licensing will be accepted when accompanied by the performance bond required by Section 44-2103, Idaho Code. ( )

**401. -- 499. (RESERVED)**

**500. PERMITS, PLAN REVIEWS, AND INSPECTIONS.**

**01. Modular Building Permit Fees.** Permits must be obtained from the Division prior to the construction of structures governed by 39-4303, Idaho Code. Other than as specified in this section, the permit fee schedule for Modular Buildings is as provided in Table 1-A plus ninety dollars (\$90) and two and one-half percent (2.5%) of the plumbing, electrical, and HVAC installation costs. The determination of value or valuation is based on the total value of all construction work for which a permit is issued.

TABLE 1-A – MODULAR BUILDING PERMIT FEES		
TOTAL VALUATION		FEE
\$1 to \$500	=	\$23.50
\$501 to \$2,000	=	\$23.50 for the first \$500 plus \$3.05 for each additional \$100, or fraction thereof, to and including \$2,000
\$2,001 to \$25,000	=	\$69.25 for the first \$2,000 plus \$14 for each additional \$1,000, or fraction thereof, to and including \$25,000
\$25,001 to \$50,000	=	\$391.75 for the first \$25,000 plus \$10.10 for each additional \$1,000, or fraction thereof, to and including \$50,000
\$50,001 to \$100,000	=	\$643.75 for the first \$50,000 plus \$7 for each additional \$1,000, or fraction thereof, to and including \$100,000
\$100,001 to \$500,000	=	\$993.75 for the first \$100,000 plus \$5.60 for each additional \$1,000, or fraction thereof, to and including \$500,000

<b>TABLE 1-A – MODULAR BUILDING PERMIT FEES</b>	
\$500,001 to \$1,000,000	= \$3,233.75 for the first \$500,000 plus \$4.75 for each additional \$1,000, or fraction thereof, to and including \$1,000,000
\$1,000,001 and up	\$5,608.75 for the first \$1,000,000 plus \$3.65 for each additional \$1,000, or fraction thereof

( )

**02. Modular Plan Review.** The Modular Building fee includes an additional amount equal to sixty-five percent (65%) of the permit fee calculated in accordance with Table 1-A. A fee of sixty-five dollars (\$65) per hour applies to additional plan review required by changes, additions, or revisions to plans. ( )

**03. Manufactured/Mobile Home Installation Permit Fees.** Permits must be obtained from the Division prior to the site installation governed by 44-2202, and 39-4004, Idaho Code in accordance with the following schedule: ( )

- a.** Single Section Unit. The permit fee is one hundred fifty dollars (\$150). ( )
- b.** Double Section Unit. The permit fee is two hundred dollars (\$200). ( )
- c.** More Than Two Sections. The permit fee for a home consisting of more than two (2) sections is two hundred fifty dollars (\$250). ( )

**04. In-Plant Inspection Agency Fees.** In-plant inspection fees for manufactured homes produced by Idaho Manufactures as per 39-4003A and 39-4004 of Idaho Code is set at forty-five dollars (\$45) per floor. ( )

**05. Inspections at Manufacturing Plants.** The Division conducts inspections at the manufacturing plant to determine compliance with codes adopted by Title 39, Chapters 40 and 41, Idaho Code, and Title 54, Chapters 10, 26, and 50, Idaho Code. ( )

**06. Manufactured Home Site Installation Inspections.** Installation permits must be obtained from the Division for installations in areas where there is no approved local program, or from a city or county that has by ordinance adopted building codes pursuant to Section 39-4116, Idaho Code, and whose installation program has been approved by the Division. All installations must be inspected and approved by the authority having jurisdiction before the manufactured home is occupied. ( )

**a.** Installation inspections shall be conducted in accordance with the Idaho Manufactured Home Installation Standard or the Design Approval Primary Inspection Agency of the manufactured home. ( )

**07. Modular Site Installation Inspection.** In order to complete the installation of an Idaho approved Modular Building, approval and inspection of the installation by the enforcement agency having jurisdiction over the site location is required. ( )

**08. Qualifications of Inspectors.** All inspectors must be properly certified for the type of inspection being conducted. The Factory Built Structures Board recognizes certifications granted through the National Certification Program Construction Code Inspector program (NCPCCI), the National Inspection Testing Certification program (NITC), the International Association of Electrical Inspectors (IAEI), and the International Code Council (ICC). ( )

**09. Minimum Training Requirements for Inspectors.** All manufactured home installation inspectors must complete eight (8) hours of training or instruction germane to the profession. ( )

**10. Rights and Limitations of Local Enforcement Agencies for Modular Buildings.** ( )

**a.** A local enforcement agency has the right to require a complete set of plans and specifications approved by the Division for each Modular Building to be installed within its jurisdiction, to require that all permits

be obtained before delivery of any unit. ( )

**b.** A local enforcement agency does not have the right to: open for inspection any Modular Building or component bearing an Insignia to determine compliance with any codes or ordinances; require by ordinance or otherwise that Modular Buildings meet any requirements not equally applicable to on-site construction; or to charge permit or plan review fees for any portion of the structure prefabricated or assembled at a place other than the Building Site. ( )

**11. Division Approval.** A city or county that has by ordinance adopted a building code pursuant to Section 39-4116, Idaho Code, is eligible to participate in the inspection of manufactured and mobile homes. Such local installation inspection program must be approved by the Division to provide inspection services if the following minimum criteria is met: ( )

**a.** Inspections are conducted by the city or county employing inspectors holding a valid certification as residential building inspector from the International Code Council; ( )

**b.** Inspectors attended training sessions provided or approved by the Division and receive a certificate evidencing successful completion thereof. ( )

**c.** Voluntary Withdrawal. A city or county may voluntarily withdraw from participation in the program to inspect manufactured homes upon providing to the Administrator of the Division thirty (30) days written notice of its intention to do so. ( )

**d.** Quality Assurance. Any inspected installation is subject to quality assurance reviews by Division of Occupational and Professional Licenses. Findings made by the Division pursuant to such reviews will be forwarded to the inspection authority having jurisdiction. ( )

**i.** All inspectors and approved programs are subject to review. ( )

**12. Modular Insignia and Serial Number.** ( )

**a.** Assigned Insignia are not transferable and are void when not affixed as assigned. ( )

**b.** Each Modular Building must bear a legible identifying serial number. Each section of a multiple Modular Building must have the same identifying serial number followed by a numerical sequence identifier or a letter suffix, or both. ( )

**501. -- 999. (RESERVED)**

[Agency redlined courtesy copy]

**24.39.31 – RULES FOR FACTORY BUILT STRUCTURES**

**000. LEGAL AUTHORITY.**

These rules are promulgated pursuant to Sections 39-4003, 39-4302, 44-2102, 44-2104, 44-2201, and 44-2202, Idaho Code. ( )

**001. SCOPE.**

~~Sections 100 through 199 of these rules apply to~~ These rules govern the manufacture and installation of modular buildings in Idaho. ~~Sections 200 through 299 of these rules~~ apply to persons engaged in the business of manufacturing, selling, or installing manufactured or mobile homes for purposes of human habitation in Idaho. ~~Sections 300 through 399 of these rules~~ apply to disputes between persons licensed as manufacturers, retailers, and installers of manufactured homes. ~~Sections 400 through 499 of these rules~~ and apply to the installation of manufactured or mobile homes in Idaho. ( )

**002. INCORPORATION BY REFERENCE.**

The Idaho Manufactured Home Installation Standard (January 1, 2018 edition), is hereby adopted and incorporated by reference and is available on the DOPL website: <https://dopl.idaho.gov>.( )

~~002.—009.(RESERVED)~~

**0103. DEFINITIONS.**

The terms defined in this section have the following meaning, unless the context clearly indicates another meaning.  
( )

**01. Alterations to Manufactured Homes.** The replacement, addition, and modification, or removal of any equipment or installation after sale by a manufacturer to a retailer but prior to sale by a retailer to a purchaser which may affect the construction, fire safety, occupancy, plumbing, heat-producing or electrical system. ~~It includes any modification made in a manufactured home which may affect the compliance of the home with the standards, but it does not include the repair or replacement of a component or appliance “plug-in” to an electrical receptacle where the replaced item is of the same configuration and rating as the one being replaced.~~ It also does not include the addition of an appliance requiring “plug-in” to an electrical receptacle, which appliance was not provided with the manufactured home by the manufacturer, if the rating of the appliance does not exceed the rating of the receptacle to which it is connected.( )

~~**02. Branch Office.** An enclosed structure accessible and open to the public, at which the business of the manufactured/mobile home retailer is conducted simultaneously with and physically separated from his principal place of business. There must be displayed on the exterior a sign permanently affixed to the land or building with letters clearly visible to the major avenue of traffic. The sign must provide the business name of the retailer.( )~~

~~**03. Business.** Occupation, profession, or trade.( )~~

**042. Deceptive Practice.** Intentionally publishing or circulating any advertising concerning mobile or manufactured homes which:( )

a. Is misleading or inaccurate in any material respect;( )

b. Misrepresents any of the products or services sold or provided by a manufacturer, manufactured/mobile home retailer, or installation company.( )

~~**053. Insignia.** A label or tag issued by the Division to indicate compliance with the codes, standards, rules, and regulations established for Modular Buildings and Commercial Coaches.( )~~

~~**0634. Installation.** The term includes “setup” and is the complete operation of fixing in place a modular building or manufactured or mobile home for occupancy.( )~~

~~**07. Manufactured Home.** A structure, constructed after June 15, 1976, in accordance with the HUD manufactured home construction and safety standards, and is transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or is forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, except that such term must include any structure which meets all the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of Housing and Urban Development and complies with the standards established under 42 U.S.C. Section 5401, et seq.( )~~

~~**08. Manufactured Home Retailer.** Except as otherwise provided in these rules:( )~~

~~a. Any person engaged in the business of selling or exchanging new and used units; or( )~~

~~b. Any person or who buys, sells, lists, or exchanges three (3) or more new and used units in any one~~

~~(1) calendar year. (—)~~

~~**09. Mobile Home.** A factory-assembled structure or structures generally constructed prior to June 15, 1976, the date of enactment of the National Manufactured Housing Construction and Safety Standards Act (HUD Code), and equipped with the necessary service connections and made so as to be readily movable as a unit or units on their own running gear and designed to be used as a dwelling unit or units with or without a permanent foundation. (—)~~

**105. Principal Place of Business.** The primary physical location at which the business of a manufactured home retailer is lawfully conducted. Each of the following requirements must be met to qualify as the principal place of business:( )

- a. The business of the manufactured or mobile home retailer is lawfully conducted here;( )
- b. The office or offices of the retailer is or are located here;( )
- c. The public may contact the retailer here;( )
- d. The offices are accessible and open to the public; and( )

e. The greatest portion of the retailer's business is conducted here. The books and other records of a retailer must be kept and maintained at the retailer's principal place of business and be open to inspection during normal business hours by any authorized agent of the Division. Moreover, there must be displayed on the exterior a sign permanently affixed to the land or building with letters providing the business name of the retailer clearly visible to the major avenue of traffic.( )

~~**11. Transit Damage.** Application to manufactured home means that damage encountered en route from the place of manufacture to the dealer or first owner involving structural integrity or any repair that does not result in return to the same construction or assembly as specified in the manufacturer's design approval without additional reinforcement or change.(—)~~

~~**126. Used Manufactured Home or Mobile Home.** A manufactured home or mobile home, respectively, which has been:( )~~

- a. Sold, rented, or leased and occupied prior to or after the sale, rental, or lease; or( )
- b. Registered with or been the subject of a certificate of title issued by the Idaho Department of Transportation or the appropriate authority of any state, the District of Columbia, or foreign state or country.( )

~~011.—099.(RESERVED)~~

~~**SUBCHAPTER A — MODULAR BUILDINGS**  
**(Rules 100 through 199)**~~

~~**1500. PERMITS, PLAN REVIEWS, AND INSPECTIONS.**~~

~~**MODULAR PERMITS AND PLAN REVIEW FEES.**~~

~~Building pPermits must be obtained from the Division prior to the construction of structures governed by Title 39, Chapter 43 39-4303, 44-2202, and 39-4004, Idaho Code, or Sections 100 through 199 of these rules.( )~~

~~**101. PLAN REVIEW.**~~

~~**01. Jurisdiction.** The Division has exclusive jurisdiction and authority to conduct plan reviews of the in-plant construction of Modular Buildings.(—)~~

~~**02. Application Provisions.** The provisions of this section apply only to plans for work that will be accomplished at the place of manufacture.(—)~~



**102. FEES.**

The following fees apply to the functions cited: ( )

**01. Modular Building Permit Fees.** Permits must be obtained from the Division prior to the construction of structures governed by 39-4303, Idaho Code. Other than as herein specified in this section, the permit fee schedule for Modular Buildings is as provided herein in Table 1-A plus ninety dollars (\$90) and two and one-half percent (2.5%) of the plumbing, electrical, and HVAC installation costs. The determination of value or valuation is based on the total value of all construction work for which a permit is issued.

TABLE 1-A – MODULAR BUILDING PERMIT FEES		
TOTAL VALUATION		FEE
\$1 to \$500	=	\$23.50
\$501 to \$2,000	=	\$23.50 for the first \$500 plus \$3.05 for each additional \$100, or fraction thereof, to and including \$2,000
\$2,001 to \$25,000	=	\$69.25 for the first \$2,000 plus \$14 for each additional \$1,000, or fraction thereof, to and including \$25,000
\$25,001 to \$50,000	=	\$391.75 for the first \$25,000 plus \$10.10 for each additional \$1,000, or fraction thereof, to and including \$50,000
\$50,001 to \$100,000	=	\$643.75 for the first \$50,000 plus \$7 for each additional \$1,000, or fraction thereof, to and including \$100,000
\$100,001 to \$500,000	=	\$993.75 for the first \$100,000 plus \$5.60 for each additional \$1,000, or fraction thereof, to and including \$500,000
\$500,001 to \$1,000,000	=	\$3,233.75 for the first \$500,000 plus \$4.75 for each additional \$1,000, or fraction thereof, to and including \$1,000,000
\$1,000,001 and up		\$5,608.75 for the first \$1,000,000 plus \$3.65 for each additional \$1,000, or fraction thereof

( )

**02. Modular Plan Review.** The Modular Building fee includes an additional amount equal to sixty-five percent (65%) of the permit fee calculated in accordance with Table 1-A. A fee of sixty-five dollars (\$65) per hour applies to additional plan review required by changes, additions, or revisions to plans. ( )

**501. MANUFACTURED AND MOBILE HOME PERMIT AND INSPECTION FEES.**

**03. Manufactured/Mobile Home Installation Permit Fees.** Permits must be obtained from the Division prior to the site installation governed by 44-2202, and 39-4004, Idaho Code in accordance with the following schedule:

- a. Single Section Unit.** The permit fee is one hundred fifty dollars (\$150).( )
- b. Double Section Unit.** The permit fee is two hundred dollars (\$200).( )
- c. More Than Two Sections.** The permit fee for a home consisting of more than two (2) sections is two hundred fifty dollars (\$250).( )

**04.** In-Plant Inspection Agency Fees. In-plant inspection fees for manufactured homes produced by Idaho Manufactures as per 39-4003A and 39-4004 of Idaho Code is set at forty-five dollars (\$45) per floor.

**103. MODULAR BUILDINGS ~~INSPECTION REQUIREMENTS.~~**

~~**01. Enforcement and Administration.** Any officer, agent, or employee of the Division is authorized to enter any premises during any normal or operational hours where Modular Buildings are manufactured for the purpose of examining any records pertaining to quality control and may inspect any such units, equipment, or installations to ensure compliance with the provisions of these rules and codes enumerated in Title 39, Chapter 43, Idaho Code. ( )~~

~~**02. Inspections.**( )~~

~~**051. Inspections at Manufacturing Plants.** The Division conducts inspections at the manufacturing plant to determine compliance with Sections 100 through 199 of these rules and with codes adopted by Title 39, Chapters 40 and 41, Idaho Code, and Title 54, Chapters 10, 26, and 50, Idaho Code.( )~~

**062. Manufactured Home Site Installation Inspections.** Installation permits must be obtained from the Division for installations in areas where there is no approved local program, or from a city or county that has by ordinance adopted building codes pursuant to Section 39-4116, Idaho Code, and whose installation program has been approved by the Division. All installations must be inspected and approved by the authority having jurisdiction before the manufactured home is occupied.( )

**a.** Installation inspections shall be conducted in accordance with the Idaho Manufactured Home Installation Standard or the Design Approval Primary Inspection Agency of the manufactured home.

**07. Modular Site Installation Inspection.** In order to complete the installation of an Idaho approved Modular Building, approval and inspection of the installation by the enforcement agency having jurisdiction over the site location is required.

~~**084. Qualifications of Inspectors.** All inspectors performing inspections of modular buildings must be properly certified for the type of inspection being conducted. The Factory Built Structures Board recognizes certifications granted through the National Certification Program Construction Code Inspector program (NCPCCI), the National Inspection Testing Certification program (NITC), the International Association of Electrical Inspectors (IAEI), and the International Code Council (ICC).-Certifications must be current and of the proper classification for the structure or subsystem being inspected.( )~~

**095. Minimum Training Requirements for Inspectors.** All manufactured home installation inspectors must complete eight (8) hours of training or instruction germane to the profession. ( )

~~**03. Installation Inspection.** In order to complete the installation of an Idaho approved Modular Building, approval and inspection of the installation by the enforcement agency having jurisdiction over the site location is required.( )~~

**1046. Rights and Limitations of Local Enforcement Agencies for Modular Buildings.**( )

**a.** A local enforcement agency has the right to require a complete set of plans and specifications approved by the Division for each Modular Building to be installed within its jurisdiction, to require that all permits be obtained before delivery of any unit.( )

**b.** A local enforcement agency does not have the right to: open for inspection any Modular Building or component bearing an Insignia to determine compliance with any codes or ordinances; require by ordinance or otherwise that Modular Buildings meet any requirements not equally applicable to on-site construction; or to charge permit or plan review fees for any portion of the structure prefabricated or assembled at a place other than the Building Site. ( )

**1107. Division Approval.** A city or county that has by ordinance adopted a building code pursuant to

Section 39-4116, Idaho Code, is eligible to participate in the inspection of manufactured and mobile homes. Such local installation inspection program must be approved by the Division to provide inspection services if the following minimum criteria is met:( )

a. Inspections are conducted by the city or county employing inspectors holding a valid certification as residential building inspector from the International Code Council:( )

b. Inspectors attended training sessions provided or approved by the Division and receive a certificate evidencing successful completion thereof.( )

c. Voluntary Withdrawal. A city or county may voluntarily withdraw from participation in the program to inspect manufactured homes upon providing to the Administrator of the Division thirty (30) days written notice of its intention to do so.( )

d. Quality Assurance. Any inspected installation is subject to quality assurance reviews by Division of Occupational and Professional Licenses. Findings made by the Division pursuant to such reviews will be forwarded to the inspection authority having jurisdiction. ( )

i. All inspectors and approved programs are subject to review.( )

**12085. Modular Insignia and Serial Number.( )**

a. Each Modular Building section must bear a Division Insignia prior to leaving the manufacturing facility. Assigned Insignia are not transferable and are void when not affixed as assigned.( )

b. Each Modular Building must bear a legible identifying serial number. Each section of a multiple Modular Building must have the same identifying serial number followed by a numerical sequence identifier or a letter suffix, or both.( )

**104303. MODULAR-300. CIVIL PENALTIES.**

01. Modular Civil Penalties. The following acts subject the violator to penalties of not more than two hundred dollars (\$200) for the first offense and not more than one thousand dollars (\$1,000) for each offense thereafter:( )

a. 01. Installation. Any person who ~~transports a modular building to or~~ installs a modular building on a building site in this state without first receiving approval and securing to the structure insignia evidencing such approval from the Division.( )

b. 02. Modification. Any person who in any way modifies or alters a modular building prior to its initial occupancy which has previously been approved by the Division without first having received approval to do so from the Division. ( )

03. Lawful Orders. Any person who fails, neglects, or refuses to obey any lawful order issued by the Administrator or his representative under Section 39-4306, Idaho Code, or who refuses to perform any duty lawfully enjoined upon him by the Administrator or his representative under Section 39-4306, Idaho Code.( )

**105. 199.(RESERVED)**

**SUBCHAPTER B — MANUFACTURED/MOBILE HOME INDUSTRY LICENSING**  
**(Rules 200 through 299)**

**2100. 100. LICENSURE MANUFACTURED/MOBILE HOME LICENSE REQUIRED.**

**01. Manufactured/Mobile Home Licensure**

a. Minimum Age Requirement. No license will be issued to a person under eighteen (18) years of

age at the time of license application.( )

~~**b. 022. Designated License Holder.** Any applicant for a license under Sections 200 through 299 of these rules who is not a natural person must designate a natural person to be license holder and represent the corporation, partnership, trust, society, club, association, or other organization for all licensing purposes under Sections 200 through 299 these rules including, but not limited to, testing and education. No issued licenses are transferable.~~  
( )

~~**a.** The authorization to act as designated license holder must be in writing, signed by the applicant and the person designated, and filed with the Division along with the application.(—)~~

~~**bi.a.** Any person designated under Subsection 200.02 of these rules represents one (1) applicant only, and must immediately notify the Division in writing if his working relationship with the applicant has been terminated. The license will be issued in the name of the designated license holder with the name of the organization he represents also noted on the license. The license holder is considered by the Division to be the licensee, even if the license holder is the designated representative of an organization.( )~~

~~**ii.e.** The applicant and the person designated under Subsection 200.02 of these rules agrees by acceptance of the designation that the designated person acts as agent of the applicant for all purposes under Title 44, Chapters 21 and 22, Idaho Code, and all rules promulgated thereunder.( )~~

~~**iii. 03. Proof of License.** Proof of the existence of any license issued pursuant to Sections 200 through 299 of these rules is carried upon the person of any installation at all times during the performance of the installation work. Moreover, a Any license issued to a manufactured/mobile home retailer must be posted in a conspicuous place on the business premises of the employer for whom the holder of the license is licensed. The license of a manufacturing facility or branch office must also be posted in a conspicuous place at the location licensed.( )~~

~~**04. Real Estate Brokers.** Licensed real estate brokers or real estate salesmen representing licensed real estate brokers are not required to obtain a license under Sections 200 through 299 of these rules to sell or lease a used unit that is currently carried on the tax rolls as personal property and that otherwise falls within the exemption contained in Section 44-2102(2), Idaho Code.(—)~~

~~**iv. 05. License for Manufacturers.** To engage in business in the state of Idaho, each manufacturer must be licensed by the Division.( )~~

~~**v. 06. License for Branch Office of Manufactured/Mobile Home Retailer.(—)**~~

~~**a.** The Division requires as a condition of licensing any information it deems necessary for each location where a manufactured/mobile home retailer maintains a branch office. The mere listing of manufactured/mobile homes for sale does not constitute a branch office, but The use of a mobile home park or a state sales office by a licensee for the sale or offering for sale of manufactured/mobile homes does constitute the maintenance of a branch office. A branch office manager may not manage more than one (1) branch office.(—)~~

~~**b.** To open a branch office, a A retailer must obtain a license from the Division to operate the branch office.  
( )~~

~~**076vi. License to Engage in Business as Manufactured/Mobile Home Retailer, Manufacturer, or Installer; Application; Bond; Issuance, Expiration, and Renewal.(—)**~~

~~**a.** Applicants for a manufacturer's, retailers, or installer's license must furnish: Any proof the Division may deem necessary that the applicant is a manufacturer, retailer, or installer; any proof the Division may require that the applicant has a principal place of business; In the case of a retailer in new manufactured homes, an instrument in the form prescribed by the Division executed by or on behalf of the manufacturer certifying that the applicant is an authorized franchise retailer for the make concerned; The fee and proof of the bond required by Section 44-2103, Idaho Code; and Proof of passing the examination required by these rules, as applicable.( )~~

~~**i.** Any proof the Division may deem necessary that the applicant is a manufacturer, retailer, or~~

- installer; ( )
- ii. Any proof the Division may require that the applicant has a principal place of business;( )
  - iii. In the case of a retailer in new manufactured homes, an instrument in the form prescribed by the Division executed by or on behalf of the manufacturer certifying that the applicant is an authorized franchise retailer for the make concerned;( )
  - iv. The fee and proof of the bond required by Section 44-2103, Idaho Code; and( )
  - v. Proof of passing the examination required by Sections 200 through 299 of these rules, as applicable. ( )
- vii. b.** Within thirty (30) days after receipt of a completed application, the Division will issue or deny the license. ( )
- viii. e.** Each license is valid for a period of one (1) year from the date of issuance ~~and may be renewed for like consecutive period upon application to and approval by the Division.~~ ( )

**2101. PROOF OF EDUCATION REQUIRED.**

**021. Proof of Education Required.**

- a. Satisfactory Proof for Initial Application Submission.** An application for a license as a manufactured/mobile home installer must include proof satisfactory to the Division that the applicant has completed the following number of hours of initial education in order to be approved:( )
- i.** Installers and retailers who are installers: eight (8) hours.( )
  - ii.** The course of initial education must be approved by the Division and must include information relating to the provisions of ~~Sections 200 through 299 of these rules, Title 44, Chapters 21, Idaho Code, and the National Manufactured Housing Construction and Safety Standards Act of 1974.~~( )

**02. SATISFACTORY PROOF FOR LICENSE RENEWAL.**

- b. Satisfactory Proof for License Renewal.** The Division will not renew any installer license, or retailer license of any retailer who is also an installer, issued pursuant to Title 44, Chapters 21 or 22, Idaho Code, or ~~Sections 200 through 299 of these rules~~ until the licensee has submitted proof satisfactory to the Division that he has, during the three (3) years immediately preceding the renewal of the license, completed at least eight (8) hours of continuing education.( )

**03 a.i. Continuing Education Course.** ~~The course of continuing education must be approved by the Division and include information~~ germane to the profession, relating to the following:( )

- a.** ~~Manufactured housing or mobile home parks;~~( )
- b.** ~~The construction, including components and accessories, rebuilding, servicing, installation, or sale of manufactured/mobile homes;~~( )
- c.** ~~Legislative issues concerning manufactured/mobile home housing and manufactured/mobile home parks, including pending and recently enacted state or federal legislation; and~~( )
- d.** ~~Sections 200 through 299 of these rules, Title 44, Chapters 21 or 22, Idaho Code, and the Manufactured Housing Safety Standards Act of 1974.~~( )

**21032. Examination Of Applicant For License.**

~~a.01.~~ **Required Examinations.** The Division requires a written examination of each applicant for an initial license as a manufactured/mobile home retailer or installer. ~~To avoid the requirement of an examination and be considered a renewal, any licensee must renew his license within six (6) months of its expiration date.( )~~

~~b.02.~~ **Approval of Examination and Grade.** ~~Examinations for all classifications under Sections 200 through 299 of these rules must be approved by the Division and the Board. No license will be issued unless the~~an applicant receives a final grade of seventy percent (70%) or higher.( )

**2033002.DISCIPLINARY ACTION AGAINST LICENSEES, CIVIL PENALTIES, AND CONSUMER COMPLAINT AND DISPUT RESOLUTION.**

~~01.~~ The Division may deny, suspend, refuse to renew, or revoke any license ~~issued under Title 44, Chapter 21, Idaho Code, or Sections 200 through 299 of these rules~~ or reissue the license subject to reasonable conditions upon any of the following grounds:( )

~~01.~~ **Violation of Rules and Statutes.** ~~For any willful or repeated violation of Sections 200 through 299 or 400 through 499 of these rules, or Title 44, Chapters 21 or 22, Idaho Code.( )~~

~~02.~~ **Failure to Have Principal Place of Business.** ~~With regards only to a manufactured/mobile home retailer, failure of the applicant or licensee to have a principal place of business.( )~~

~~03.~~ **False Information.** ~~Material misstatement in the application or otherwise furnishing false information to the Division.( )~~

~~04.~~ **Disclosing Contents of Examination.** ~~Obtaining or disclosing the contents of an examination given by the Division.( )~~

~~05.~~ **Deceptive Practice.** ~~The intentional publication, circulation, or display of any advertising which constitutes a deceptive practice as that term is defined in Subsection 010.04 of these rules.( )~~

~~06.a.~~ **Failure to Provide Business Name.** ~~Failure to include in any advertising the name of the licensed retailer or installer.( )~~

~~07.~~ **Encouraging Falsification.** ~~Intentionally inducing an applicant or licensee to falsify an application.( )~~

~~08b.~~ **Poor Workmanship.** ~~Performing workmanship which is grossly incompetent or repeatedly below the standards adopted by Title 44, Chapters 21 and 22, Sections 200 through 299 or 400 through 499 of the provisions of these rules, or the National Manufactured Housing Construction and Safety Standards Act of 1974, or the latest Idaho adopted editions of and amendments to the International Residential Code, the National Electrical Code, the Idaho State Plumbing Code, and the International Mechanical Code.( )~~

~~09.~~ **Installation Supervisor Required.** ~~Failure to have an employee personally supervise any installation of a manufactured/mobile home.( )~~

~~c.10.~~ **Failure to Honor Warranties.** ~~Failure to honor any warranty or other guarantee given by a licensee for construction, workmanship, or material as a condition of securing a contract, or of selling, leasing, reconstructing, improving, repairing, or installing any manufactured/mobile home.( )~~

~~11.~~ **Revocation or Denial of License.** ~~Revocation or denial of a license issued pursuant to Sections 200 through 299 of these rules or an equivalent license by any other state or U.S. territory.( )~~

~~d.12.~~ **Failure to Respond to Notice.** ~~Failure to respond to a notice served by the Division.( )~~

~~c.13.~~ **Failure to Permit Access to Documentary Materials.** ~~Failure or refusing to permit access by the Division to relevant documentary materials after being requested to do so by the Division.( )~~

~~f.14.~~ **Conviction of Misdemeanor.** Conviction of a misdemeanor for violation of any of the provisions of Title 44, Chapters 21 or 22, Idaho Code.( )

~~g.15.~~ **Conviction of Felony.** Conviction or withheld judgment for a felony in this state, any U.S. territory, or country.( )

~~16.~~ **Dealing with Stolen Manufactured or Mobile Homes.** To knowingly purchase, sell, or otherwise acquire or dispose of a stolen manufactured or mobile home. (—)

~~h.17.~~ **Violation of Permit or Inspection Requirements.** To knowingly violate any permit or inspection requirements of any city or county of this state.( )

~~204.~~ **PROCEDURES FOR LICENSING SUSPENSION, REVOCATION OR NONRENEWAL.**  
Any proceeding to suspend, revoke, or not renew any license will be conducted as a contested case in accordance with the provisions of Title 67, Chapter 52, Idaho Code, and the “Idaho Rules of Administrative Procedure of the Attorney General,” IDAPA 04.11.01.000, et seq.(—)

~~205.~~ **APPLICATION FOR NEW LICENSE.**  
Any person whose license has been revoked may not apply for a new license until the expiration of one (1) year from the date of such revocation.(—)

~~206~~**400. MANUFACTURED/MOBILE HOME LICENSE FEES.**

**01. Fees for Issuance and Renewal of License.** The following fees for the issuance and renewal of a license will be charged:( )

a. Manufactured/mobile home retailer license: four hundred forty dollars (\$440). Retailers who are also installers will have to pay an installer's license fee to hold both licenses.( )

b. Manufacturer license: four hundred forty dollars (\$440);( )

c. Manufactured/mobile home installer license: two hundred twenty dollars (\$220);( )

**02. Performance Bonding Requirements.** Application for licensing will be accepted when accompanied by the performance bond required by Section 44-2103, Idaho Code.( )

~~207.~~ **MANUFACTURED HOMES CONSTRUCTION AND SAFETY STANDARDS.**  
Effective June 15, 1976, the latest published edition of the National Manufactured Home Construction and Safety Standards and Manufactured Home Procedural and Enforcement Regulations are in effect for all manufactured homes manufactured within the state of Idaho, and for all new manufactured homes for sale within the state of Idaho. All new manufactured homes offered for sale within Idaho after the effective date of this section bear the Housing and Urban Development (H.U.D.) label as authorized in the Manufactured Home Procedural and Enforcement Regulations.(—)

~~208.~~ **CIVIL PENALTIES.**

~~2091.~~ **TypeManufactured Home Civil Penalties.** Except as otherwise provided, the following acts subject the violator to penalties of not more than five hundred dollars (\$500) for the first offense and not more than one thousand dollars (\$1,000) for each offense thereafter:( )

a. **Industry Licensing.** Except as provided for by Section 44-2106, Idaho Code, any person who engages in the business of a manufacturer, retailer, or installer, as defined in Section 44-2101A, Idaho Code, without being duly licensed by the Division.( )

b. **Deceptive Practice.** Any retailer or installer who intentionally publishes or circulates any advertising that is misleading or inaccurate in any material respect or that misrepresents any of the products or services sold or provided by a manufacturer, retailer, or installer.( )

c. **Dealing with Stolen Manufactured or Mobile Homes.** Any person who knowingly purchases, sells, or otherwise acquires or disposes of a stolen manufactured or mobile home is subject to a civil penalty of not more than one thousand dollars (\$1,000).( )

d. **Failure to Maintain a Principal Place of Business.** Any person who is a retailer duly licensed by the Division and who fails to maintain a principal place of business within Idaho.( )

e. **Violation of Rules and Statutes.** Any person who knowingly violates ~~Sections 200 through 299 or 400 through 499~~ of these rules or Title 44, Chapters 21 or 22, Idaho Code.( )

~~02.f.~~ **Gross Violation.** In case of continued, repeated, or gross violations of ~~Sections 200 through 299 or 400 through 499~~ of these rules, a license revocation may be initiated for licensed individuals under Title 44, Chapter 21, Idaho Code. Non-licensed individuals are subject to prosecution by the appropriate jurisdiction under Idaho law.( )

~~200. 299. (RESERVED)~~

~~SUBCHAPTER C — MANUFACTURED HOMES —  
CONSUMER COMPLAINTS — DISPUTE RESOLUTION  
(Rules 300 through 399)~~

~~03. Consumer Complaints and Dispute Resolution~~ **INVESTIGATION.**

~~a. 01.~~ **Site Inspection.** The Division may perform a site inspection, based on the nature of a complaint or upon request of the complainant ~~in accordance with HUD.~~( )

~~b. 02.~~ **Fees.** A charge for mileage to and from the inspection site, plus an hourly charge for the time spent conducting the inspection, is assessed the manufacturer, installer, or retailer if a site inspection is made upon a request by the manufacturer, installer, or retailer, and does not involve a serious defect or imminent safety hazard.  
( )

~~c. 03.~~ **Inspection Report.** Following a site inspection, the inspector will prepare a final report and include photographs.( )

~~301. ACTION.~~

~~d.~~ **Action.** A notification letter and copies of the complaint form and investigation findings may be provided to all involved parties and HUD.( )

~~01.i.~~ **Division Action.** Any Division action, notification and follow-up are completed according to HUD guidelines. ( )

~~02.ii.~~ **License File.** If the nature of the complaint pertains to retailer contractual issues or installation problems, a copy of the complaint is to be consolidated with the appropriate Division license files.( )

~~03.iii.~~ **Correction or Repair.** A Division building inspector will issue a report concerning correction or repair of defects that are a matter of dispute between the homeowner, retailer, installer, or manufacturer. The report will include the likely cause of the defect and identify the party responsible for creating the defect that is in need of correction or repair.( )

~~302.50. DECISIONS — APPEALS — INFORMAL DISPOSITION.~~

~~01.e.~~ **Decisions.** The Administrator will review the inspector's report and set forth the required corrective action and identify the party responsible for such action. The Administrator may initiate a contested case proceeding if, in his sole discretion, he determines that such a proceeding or further investigation would be of assistance in reaching a decision. The decision must direct the responsible party to complete the required corrective



action within specified timelines and consider the needs of the involved parties including, but not limited to, safety, anticipated expense and availability of funds, time of year, and convenience to the parties.( )

**02.f. Appeals.** Decisions of the administrator are final orders for purposes of appeal.( )

**03.g. Informal Disposition -- Arbitration -- Mediation.** Unless otherwise prohibited by other provisions of law, informal disposition may be made of any complaint by negotiation, stipulation, agreed settlement, and consent order. The parties may agree to enter into binding arbitration or mediation. Informal settlement of matters is to be encouraged.( )

~~303. 399.(RESERVED)~~

~~**SUBCHAPTER D — MANUFACTURED OR MOBILE HOME INSTALLATIONS**  
**(Rules 400 through 499)**~~

~~**400. ADOPTION AND INCORPORATION BY REFERENCE.**~~

~~The Idaho Manufactured Home Installation Standard (January 1, 2018 edition), is hereby adopted and incorporated by reference into these rules.(—)~~

~~**401. APPLICATION — COMPLIANCE.**~~

~~**01. Application — State Preemption.** Cities and counties may not adopt or enforce more or less stringent standards, except as permitted by Section 67-6509(a), Idaho Code, as it pertains to the siting of manufactured homes in residential areas.(—)~~

~~**02. Compliance — Disciplinary Action Against Licensees.** Failure to comply with these standards constitutes grounds for discipline as provided in Title 44, Chapter 21, Idaho Code.(—)~~

~~**402. USE OF MANUFACTURERS' INSTALLATION INSTRUCTIONS.**~~

~~In any instance in which there is a conflict between the DAPIA installation instructions and the Idaho Manufactured Home Installation Standards, the DAPIA installation instructions supersede and serve as the controlling authority.  
(—)~~

~~**403. INSTALLATION PERMITS AND INSPECTIONS REQUIRED.**~~

~~Installation permits must be obtained from the Division for installations in areas where there is no approved local program, or from a city or county that has by ordinance adopted building codes pursuant to Section 39-4116, Idaho Code, and whose installation program has been approved by the Division. All installations must be inspected and approved by the authority having jurisdiction before the manufactured home is occupied.(—)~~

~~**404. INSTALLATION PERMIT FEES.**~~

~~A city or county whose installation inspection program has been approved by the Division establishes their own fee schedule for installation permits within their jurisdiction. Permits obtained from the Division are in accordance with the following schedule:(—)~~

~~**01. Single Section Unit.** The permit fee is one hundred fifty dollars (\$150).(—)~~

~~**02. Double Section Unit.** The permit fee is two hundred dollars (\$200).(—)~~

~~**03. More Than Two Sections.** The permit fee for a home consisting of more than two (2) sections is two hundred fifty dollars (\$250).(—)~~

~~**04. Trade Permits.** Trade permits are administered separately from installation permits, and fees for such are separate from the fees identified in Section 404 of these rules.(—)~~

~~**405. INSTALLATION TAGS REQUIRED.**~~

~~The owner or installer of a new manufactured home must purchase an installation tag for fifty dollars (\$50) from the Division prior to commencing the installation of a manufactured home in Idaho. Such tag is required regardless of~~

which jurisdiction has authority to perform the installation inspection. (—)

**~~406. APPROVAL OF LOCAL MANUFACTURED HOME INSTALLATION INSPECTION PROGRAMS.~~**

~~**01. Division Approval.** A city or county that has by ordinance adopted a building code pursuant to Section 39-4116, Idaho Code, is eligible to participate in the inspection of manufactured and mobile homes. Such local installation inspection program must be approved by the Division to provide inspection services if the following minimum criteria is met:(—)~~

~~**a.** Inspections are conducted by the city or county employing inspectors holding a valid certification as residential building inspector from the International Code Council:(—)~~

~~**b.** Inspectors attended training sessions provided or approved by the Division and receive a certificate evidencing successful completion thereof.(—)~~

~~**02. Voluntary Withdrawal.** A city or county may voluntarily withdraw from participation in the program to inspect manufactured homes upon providing to the Administrator of the Division thirty (30) days written notice of its intention to do so.(—)~~

**~~407. MINIMUM TRAINING REQUIREMENTS FOR INSPECTORS.~~**

~~All installation inspectors employed by the Division or a city or county must complete eight (8) hours of training or instruction approved by the Division every three (3) years dedicated to the installation and inspection of manufactured and mobile homes.(—)~~

**~~408. QUALITY ASSURANCE.~~**

~~**01. Inspected Installations.** Any inspected installation is subject to quality assurance reviews by Division of Occupational and Professional Licenses. Findings made by the Division pursuant to such reviews will be forwarded to the inspection authority having jurisdiction.(—)~~

~~**02. Inspectors and Programs.** All inspectors and approved programs, including the Division, are subject to review. (—)~~

**~~409. MINIMUM SCOPE OF INSTALLATION INSPECTION.~~**

~~**01. Scope.** At a minimum, the inspection of the installation of a manufactured home by an installer includes the inspection record document must verify that the installer has visually inspected the installation of the mobile or manufactured home.(—)~~

~~**02. Inspection Minimum Requirements.** At a minimum, the inspection of the installation of a manufactured home must include the following by an inspector:(—)~~

~~**a.** Verification that site location is suitable for home design and construction, and inspection of site-specific conditions, including preparation and grading for drainage;(—)~~

~~**b.** Inspection of the foundation construction;(—)~~

~~**c.** Verification that installed anchorage meets minimum requirements; and(—)~~

~~**d.** Verification of completed inspection record document.(—)~~

**~~410. 999.(RESERVED)~~**

# IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

## 24.39.50 – RULES OF THE PUBLIC WORKS CONTRACTORS LICENSE BOARD

### DOCKET NO. 24-3950-2301 (ZBR CHAPTER REWRITE, FEE RULE)

#### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, and Sections 54-1907, 67-2614, 67-9406, and 67-9409, Idaho Code.

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

<b>Monday, September 11, 2023, 9:00 a.m. MT</b>
<b>Division of Occupational and Professional Licenses Chinden Campus Building 4 11341 W. Chinden Blvd., Bldg. #4 Boise, ID 83714</b>
<b>Telephone and web conferencing information will be posted on: <a href="https://dopl.idaho.gov/calendar/">https://dopl.idaho.gov/calendar/</a> and <a href="https://townhall.idaho.gov/">https://townhall.idaho.gov/</a></b>

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

**DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Public Works Contractors License Board is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders, the proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter and to use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and Executive Order 2020-01.

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

The fees for applications, licenses, and reinstatement as designated in Rule 400 of these proposed rules are authorized in Section 54-1907, Idaho Code. None of these fees are being changed as a result of this rulemaking or since being previously reviewed by the Idaho legislature.

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

This rulemaking is not anticipated to have any negative fiscal impact on the State General Fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted under Docket No. 24-ZBRR-2301. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June, 7 2023 Idaho Administrative Bulletin, [Vol. 23-6, pp. 75-76](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this proposed rule, contact Katie Stuart, Administration Bureau Chief, at (208) 577-2489. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2023.

DATED this 8th day of August, 2023.

Katie Stuart  
Bureau Chief  
11341 W. Chinden Blvd., Bldg. #4  
Boise, ID 83714  
Phone: (208) 577-2489  
Email: [katie.stuart@dopl.idaho.gov](mailto:katie.stuart@dopl.idaho.gov)  
Website: <https://dopl.idaho.gov/>

**THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 24-3950-2301**  
**(ZBR Chapter Rewrite)**

*\*Note – Due to extensive reorganization of this ZBR chapter, the rule text below is presented as clean text without showing amendments in legislative format. A redline copy provided by the agency has been included at the end of the docket for transparency and can be utilized to track all edits used to formulate the proposed rule.*

**24.39.50 – RULES OF THE PUBLIC WORKS CONTRACTORS LICENSE BOARD**

**000. LEGAL AUTHORITY.**

This chapter is adopted pursuant to Sections 54-1907, 67-2604, 67-2614, 67-9409, and 67-9406 Idaho Code, as amended. ( )

**001. TITLE.**

These rules govern the practice of public works contractors in Idaho. ( )

**002. -- 009. (RESERVED)**

**010. DEFINITIONS.**

**01. Compiled.** A type of financial statement in which the information presented is based solely upon representations by an organization's management. ( )

**02. Estimated Cost.** The total aggregate amount of the value of all the separate or individual jobs, parts, components, or undertakings involved in the construction of a single project when combined and considered as a whole. ( )

**03. Financial Statement.** A balance sheet and income statement prepared in accordance with generally accepted accounting principles. ( )

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

**05. Independent Audit Report.** A report prepared by an independent certified public accountant presenting opinion on the fairness of the organization's financial statements and prepared in accordance with generally accepted auditing standards. ( )

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

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

**011. -- 099. (RESERVED)**

**100. LICENSURE.**

**01. Renewal.** ( )

**a. Filing Deadline.** Applications for renewal of a license must be filed by the last working day of the month in which the license expires. ( )

**b. Extension of Time.** A petition for an extension of time in which to renew must be filed by the last working day of the month in which the license expires and may be extended once for a period not to exceed sixty (60) days. Approval of a petition for extension of time authorizes operation as a contractor. ( )

**c. Failure to File.** If the licensee fails to file a timely application for renewal or petition for extension, the license lapses and expires on the last day of the license period. Licenses not renewed in a timely manner are considered delinquent for a period of one (1) year from the last day of the license period and may be renewed at any time during that year. ( )

**d. Expedited Licensure.** Upon an applicant's request and payment of a fee of one hundred dollars (\$100), the Division will expedite its review and determination of a license application. ( )

**02. Petition to change or add types of construction.** A petition to change or add types of construction must be supported by evidence, satisfactory to the administrator, of work history, job performance, experience, equipment, and financial responsibility. ( )

**03. Application.** The applicant must submit to the administrator, on such forms and in a format as the administrator prescribes. ( )

**a.** For Class A, AA, AAA, and Unlimited license applications, financial statements must be accompanied by an independent auditor's report, or be reviewed. For Class B and CC license applications, financial statements must be accompanied by an independent audit report or be reviewed or compiled by a certified public accountant. For Class C and Class D license applications, financial statements must be accompanied by an independent audit report or be reviewed, compiled, or on the form provided by the administrator. ( )

**b.** Applicants requesting a higher licensing class must provide documentation of having performed projects similar in scope and character to those for which license is requested. Licenses granted under this rule are valid for twelve (12) months from the date of issuance. ( )

**c.** Extension of Time to File Financial Statement. The administrator may grant an extension of time to file the annual financial statement if the licensee provides an interim compiled balance sheet and income statement for the applicant's fiscal year-to-date. A renewal application must be filed prior to the first day of the licensing period, ( )

and is valid for a period of twelve (12) months from the date of the issuance. ( )

**d. Financial Requirements:**

LICENSE CLASS	NET WORTH	WORKING CAPITAL
Unlimited	\$2,000,000	\$2,000,000
AAA	\$1,200,000	\$400,000
AA	\$900,000	\$300,000
A	\$600,000	\$200,000
B	\$300,000	\$100,000
CC	\$150,000	\$50,000
C	\$50,000	\$15,000
D	\$20,000	\$6,000

( )

**04. Examination.** The Board approves all subject areas and topics to be included in the public works contractor license examination. Applicants for licensure must pass an examination as approved by the Board. ( )

**a. Professional Testing Services.** The administrator may contract with a professional testing service to administer the examination. ( )

**b. Individual Qualified By Examination.** Written notice that the Qualified Individual of a public works contractor has ceased to be connected with the contractor must be provided to the Administrator. ( )

**05. Limitations.** ( )

**a. One License.** A licensee will be permitted to hold only one (1) class of license at any given time. ( )

**b. Previous License Null and Void.** When a licensee of one class has been issued a license of another class, the previous license is null and void. ( )

**c. Total Bid Cost.** The total of any single bid on a given public works project, or the aggregate total of any split bids, or the aggregate total of any base bid and any alternate bid items, or the aggregate total of any separate bid by a licensee of any class, except Class Unlimited, may not exceed the estimated cost or bid limit of the class of license held by the licensee. The aggregate total of bids must include all bids of the subcontractors. Subcontractor bids are not considered a separate bid for the purposes of computing the bid on a given public works project. ( )

**d. Two or More Licensees.** Two (2) or more licensees of the same class or of different classes are not permitted to combine the estimated cost or bid limit of their licenses to submit a bid in excess of the license held by either licensee. ( )

**06. Construction Manager Examinations.** ( )

**a.** If the applicant fails an examination, the applicant may take the examination a second time. If the applicant fails to achieve a passing grade, the applicant must wait for a period set by the Administrator before taking the examination again. The applicant must then take and pass all sections of the examination. ( )

**101. -- 199. (RESERVED)**

**200. PRACTICE STANDARDS.**

**01. Business Organization -- Changes In Organization Or Structure -- Members Of Joint Ventures - Changes For Reasons Other Than Death.** A licensed public works contractor or construction manager who undergoes a change in business organization or structure (such as a change from an individual proprietor to a partnership, corporation, limited liability partnership, limited liability company, joint venture, or other combination thereof), or where there is a change in ownership, must file an application for a new license on behalf of such successor organization or new owners within sixty (60) days after such change occurs. The administrator may authorize the continuous operation of the licensee as a contractor during the interim period until the application of the successor organization is reviewed; provided written notice of such change is filed within thirty (30) days after such change occurs. Each participant in a joint venture must be licensed at the time of bidding. Where there is a change in the surviving members of a licensed partnership, limited liability company, or limited liability partnership, due to a reason other than the death of one (1) of the partners, the remaining or succeeding member or members are required to file an application for an original license. ( )

**02. License Number On Bids.** Licensee must place his license number on any and all bids submitted or contracts entered into, for any public works projects in the state of Idaho. ( )

**03. Changes In License Certificate.** ( )

**a.** When any change in the license certificate has been approved by the Board, a new license certificate will be issued. ( )

**201. -- 399. (RESERVED)**

**400. FEES.**

**01. Public Works Contractor.**

License Class	Initial Fee	Renewal Fee
Unlimited	\$550	\$440
AAA	\$450	\$360
AA	\$350	\$280
A	\$250	\$160
B	\$150	\$120
CC	\$125	\$100
C	\$100	\$80
D	\$50	\$40

( )

**02. Construction Manager:**

License Activity	Fee
Initial Licensing	\$200
License Renewal	\$200
Inactive License	\$50
License Reinstatement	\$200
Certificate of Authority	\$100

( )

401. -- 999. (RESERVED)

[Agency redlined courtesy copy]

## 24.39.50 – RULES OF THE PUBLIC WORKS CONTRACTORS LICENSE BOARD

### 000. LEGAL AUTHORITY.

This chapter is adopted pursuant to Sections 54-1907, ~~67-2604, 67-2614, 67-9409, and 67-9406~~ Idaho Code, as amended. ( )

### 001. TITLE.

These rules govern the practice of public works contractors in Idaho. ( )

### ~~002. -- 009. (RESERVED)~~

### 010. DEFINITIONS.

~~As used in these rules.~~ ( )

~~01. Applicant. Any person who has filed an application with the administrator.~~ ( )

~~012. Compiled. A type of financial statement in which the information presented is based solely upon representations by an organization's management.~~ ( )

~~023. Estimated Cost. For the purposes of the application of Section 54-1903(i), Idaho Code, the term "estimated cost" refers to the total aggregate amount of the value of all the separate or individual jobs, parts, components, or undertakings involved in the construction of a single project when combined and considered as a whole, regardless of the types of trades, sub-contracts, work, or other individual aspects involved, and without regard to the number of trades or crafts that are involved.~~ ( )

~~034. Financial Statement. A balance sheet and income statement prepared in accordance with generally accepted accounting principles.~~ ( )

~~045. Incidental Work. Work, the nature of which does not require any additional trade licenses and which may be carried out in conjunction with an activity for which the licensee is licensed, but is not intended to produce an amount of income over ten percent (10%) of the total bid amount.~~ ( )

~~056. Independent Audit Report. A report prepared by an independent certified public accountant presenting such auditor's opinion on the fairness of the organization's financial statements and prepared in accordance with generally accepted auditing standards.~~ ( )

~~07. Licensee. Includes any individual proprietor, partnership, limited liability partnership, limited liability company, corporation, joint venture, or other business organization holding a current, unrevoked public works contractor license.~~ ( )

~~068. Qualified Individual. The person qualifying by examination as to the experience and knowledge required by Section 54-1910(a), Idaho Code.~~ ( )

~~079. Reviewed. Refers to a financial statement that is accompanied by the opinion of a certified public accountant stating that, based upon representations by the organization's management, the reviewer has a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the financial statements in order for the statements to be in accordance with generally accepted accounting principles.~~ ( )



~~101. (RESERVED)~~

**102. COMMUNICATION.**

All communications are deemed officially received only when delivered to the office of the administrator. ( )

**103. PETITIONS.**

An applicant or licensee seeking an order or decision of the administrator or the Board on any matter, or disciplinary proceeding, must file a written petition. ( )

**104. FORM AND CONTENT OF PETITION.**

~~01. Form.~~ The petition, including the heading, the name of the petitioner or person making the request, and the purpose of the petition must contain the following: ( )

- ~~a.~~ The petitioner's name, address, and license number. ( )
- ~~b.~~ The petitioner's request in brief, precise and specific terms, including references to any pertinent statutes or rules, and a detailed explanation of the purpose for the request. ( )
- ~~c.~~ Statements of fact to support the request. Briefs and supporting documents may accompany petitions. ( )

~~02. Service.~~ The petition must be dated and signed by the petitioner, and filed as set forth in Section 102 of these rules. ( )

~~105.100. LICENSURE, RENEWAL, FILING DEADLINES, PETITIONS FOR EXTENSION OF TIME TO FILE, LAPSED LICENSES.~~

**01. Renewal**

~~a. Filing Deadline.~~ Applications for renewal of a license must be filed by the last working day of the month in which the license expires. ( )

~~02b. Extension of Time.~~ A petition for an extension of time in which to renew must be filed by the last working day of the month in which the license expires and may be extended once for a period not to exceed sixty (60) days. Approval of a petition for extension of time authorizes operation as a contractor. . The petition must be accompanied by a fee in the amount of the prorated portion of the annual license fee for the class of license applied for, with a minimum fee of at least fifty dollars (\$50). The fee for this service is required in addition to the licensing and renewal fees provided for in Section 201 of these rules and paid to the Division at the time of application for licensure. Petitions not accompanied by the required fees or filed after the license has expired will not be honored. ( )

~~a.~~ The petition must specify the number of days for which the extension is being requested; however under no circumstances may an extension exceed sixty (60) days. ( )

~~03. Approval of Petition.~~ Approval of a petition for an extension of time authorizes operation as a contractor until the administrator completes action on the renewal application, provided the application for renewal is filed with the Administrator within the extended time specified. ( )

~~04c. Failure to File.~~ If the licensee fails to file a timely application for renewal or petition for extension, the license lapses and expires on the last day of the license period. Licenses not renewed in a timely manner are considered delinquent for a period of one (1) year from the last day of the license period and may be renewed at any time during that year. Licenses delinquent for more than a period of one (1) year must be reinstated and the applicant for reinstatement must apply as if for a new license. ( )

~~05d. Expedited Licensure.~~ Upon an applicant's request and payment of a fee of one hundred dollars

(\$100), the Division will expedite its review and determination of a license application. ~~The fee for this service is required in addition to the licensing and renewal fees provided for in Section 201 of these rules and must be paid to the Division at the time of application for licensure.~~( )

~~**106. SPECIAL PROVISIONS COVERED IN A PETITION TO CHANGE OR ADD TYPES OF CONSTRUCTION.**~~

~~**02. Petition to change or add types of construction.** A petition to change or add types of construction must be supported by evidence, satisfactory to the administrator, of work history, job performance, experience, equipment, and financial responsibility, and a minimum of three (3) letters of reference. The evidence of work history, job performance, experience, and financial responsibility must comply with the requirements of Subsections 110.01 and 110.02 of these rules. All of the evidence must specifically pertain to work that is similar in scope and value to that for which the change or addition is being requested.~~( )

~~**107. 108.(RESERVED)**~~

~~**109. NOTICE.**~~

~~In any contested case or other matter of Board business, written notification, mailed to the licensee or the applicant at the most current address on record with the Board, constitutes sufficient notification for all purposes within Title 54, Chapter 19, Idaho Code, and these rules.~~( )

~~**110. APPLICATION FOR LICENSURE — DOCUMENTATION; APPRAISALS; REFERENCES; BONDING; AND FINANCIAL STATEMENTS.**~~

~~**031. Application Documentation.** To obtain a license, The applicant must submit to the administrator, on such forms and in a format as the administrator prescribes, including electronically, accompanied by the required fee for the class of license applied for, a complete written application for such license. All of the information submitted by the applicant must specifically pertain to work that is similar in scope and value to that for which licensure is being requested or that is being requested in a petition to change or add types of construction. The information contained in such application forms must include:( )~~

~~**a.** A complete statement of the general nature of applicant's contracting business, including a concise description of the applicant's experience and qualifications as a contractor and a list of clients for whom work has been performed;~~ ( )

~~**b.** A description of the value and character of contract work completed and for whom performed during the three (3) year period prior to filing the application;~~( )

~~**e.** A general description of applicant's machinery and equipment; and~~( )

~~**d.** An annual financial statement, as herein defined, that covers a period of time ending no more than twelve (12) months prior to the date of submission of the application, indicating compliance with such financial requirements as the Board may prescribe by rule. The applicant's financial statement may be supplemented with:~~ ( )

~~**i.** Bonding. As authorized by Section 54-1910(e), Idaho Code, a letter from applicant's bonding company, not an insurance agent, stating the amount of the applicant's bonding capability per project and in the aggregate, including supporting documentation;~~( )

~~**ii.** Guaranty. Documentation, satisfactory to the administrator, of the existence of a written guaranty agreement between the applicant and a third party in which the third party guarantor agrees to assume financial responsibility for payment of any obligations of the applicant for any particular project as may be determined by a court of competent jurisdiction. The guaranty agreement, along with financial statements meeting the requirements of Paragraph 110.01.e. of this rule, must be submitted with the license application.~~( )

~~**ea.** For Class A, AA, AAA, and Unlimited license applications, financial statements must be accompanied by an independent auditor's report, or be reviewed. For Class B and CC license applications, financial statements must be accompanied by an independent audit report or be reviewed or compiled by a certified public~~

accountant. For Class C and Class D license applications, financial statements must be accompanied by an independent audit report or be reviewed, compiled, or on the form provided by the administrator, ~~and include such additional information as may be required by the administrator to determine the applicant's fitness for a license.~~

( )

~~f. The name, social security number, and business address of an individual applicant or, if the applicant is a partnership, its tax identification number, business address, and the names and addresses of all general partners; and if the applicant is a corporation, association, limited liability company, limited liability partnership, or other organization, its tax identification number, business address, and the names and addresses of the president, vice president, secretary, treasurer, and chief construction managing officers, or responsible managing employee.~~

( )

~~g.b. Applicants requesting a higher licensing class higher than that for which the applicant is currently licensed must provide documentation, satisfactory to the administrator, of having performed projects, similar in scope and character to those for which license is requested. Licenses granted under this rule are valid for twelve (12) months from the date of issuance. The monetary value of those jobs must fall within a range not less than thirty percent (30%) below that for which the applicant is currently licensed.~~

~~02. Application for Change in Licensing Class. Requests for a licensing class higher than that for which the applicant is currently licensed must be accompanied by the information in Subsection 110.01 of these rules, and the applicable fee. Licenses granted under Subsection 110.02 of these rules are valid for a period of twelve (12) months from the date of issuance.~~

~~03.c. Extension of Time to File Financial Statement. The administrator may grant an extension of time to file the annual financial statement if the licensee provides an interim compiled balance sheet and income statement for the applicant's fiscal year-to-date, duly certified as true by the applicant, and if a partnership, limited liability company, or limited liability partnership by a member thereof, and if a corporation, by its executive or financial officer. Such renewal application must be filed prior to the first day of the such renewal licensing period, and, in the event an extension is granted, the renewal license is valid for a period of twelve (12) months from the date of the issuance of the renewal license.~~

~~04. Appraisals. The administrator may require submission of an independent appraisal of any real or chattel property reported by an applicant or licensee. Such appraisals must be conducted by a disinterested person or firm established and qualified to perform such services.~~

~~05. References. The administrator may require an applicant for an original or renewal license to furnish such personal, business, character, financial, or other written references as deemed necessary and advisable in determining the applicant's qualifications.~~

**11. FINANCIAL REQUIREMENTS.**

The financial requirements for obtaining and maintaining a heavy, highway, building, and specialty construction license under this act must be as described in this section for each respective class. An applicant requesting a license for each class identified in this section must have a minimum net worth and possess an amount of working capital as provided in Table 111.01:

**d. Financial Requirements:**

<b>TABLE 111.01 — FINANCIAL REQUIREMENTS</b>		
<b>LICENSE CLASS</b>	<b>NET WORTH</b>	<b>WORKING CAPITAL</b>
Unlimited	\$1,000,000 <del>2,000,000</del>	\$1,000,000 <del>2,000,000</del>
AAA	\$600,000 <del>1,200,000</del>	\$200,000 <del>400,000</del>

AA	\$ <del>450,000</del> <u>900,000</u>	\$ <del>150,000</del> <u>300,000</u>
A	\$ <del>300,000</del> <u>600,000</u>	\$ <del>100,000</del> <u>200,000</u>
B	\$ <del>150,000</del> <u>300,000</u>	\$ <del>50,000</del> <u>100,000</u>
CC	\$ <del>75,000</del> <u>150,000</u>	\$ <del>25,000</del> <u>50,000</u>
C	\$ <del>25,000</del> <u>50,000</u>	\$ <del>7,500</del> <u>15,000</u>
D	\$ <del>10,000</del> <u>20,000</u>	\$ <del>3,000</del> <u>6,000</u>

( )

**112. EXAMINATION.**

**04. Examination.** The Board approves all subject areas and topics to be included in the public works contractor license examination. Applicants for licensure must pass an examination as approved by the Board.

( )

**01. Frequency of Conducting of Examinations.**(~~---~~)

**a.** Examinations for all classes of licenses under the Public Contractors laws and rules will be given a minimum of four (4) times each year in the Division's three (3) office locations.(~~---~~)

**b.** The applicant will be notified in writing of the date, time, and location at which the examinations will be given, following approval of the application.( )

**02.a. Professional Testing Services.** ~~In lieu of the administration by the administrator of the examination for licenses, and require all license applicants, with the exception of Class D applicants, to pay to the testing service the fee that they have set for the examination, to take such examination at the time set by such service, and provide the Division acceptable verification of the test score. In such instances, the Division may charge and retain the application fee provided for by Section 54-1911, Idaho Code, to cover the cost of reviewing the applicant's application.~~ ( )

**a.** Class D applicants will utilize the existing in-house, open-book examination.( )

**b.** Class D licensees pursuing an upgrade must reapply and pass the examination administered by the professional testing service.( )

**03. Required Score.** The applicant must receive a final grade of seventy percent (70%) or higher prior to issuance of the appropriate license.(~~---~~)

**04. Failed Examinations.**(~~---~~)

**a.** An applicant receiving less than a passing score on a first or second examination may be reexamined without reapplication.(~~---~~)

**b.** Before being reexamined after failing an examination the third time, an applicant must resubmit the application and fee.(~~---~~)

**c.** Before being reexamined after any further failures, an applicant for reexamination must wait until the expiration of sixty (60) days from the date of the failed examination and resubmit the application and fee for each subsequent examination.(~~---~~)

~~113. INDIVIDUAL QUALIFIED BY EXAMINATION.~~

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

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

~~114.—198.(RESERVED)~~

~~199. LIMITATIONS.~~

~~01.05. **Limitations**~~

~~a. **One License.** A licensee will be permitted to hold only one (1) class of license at any given time.  
( )~~

~~02.b. **Previous License Null and Void.** When a licensee of one class has been issued a license of another class, the previous license is null and void.( )~~

~~03.c. **Total Bid Cost.** The total of any single bid on a given public works project, or the aggregate total of any split bids, or the aggregate total of any base bid and any alternate bid items, or the aggregate total of any separate bid by a licensee of any class, except Class Unlimited, may not exceed the estimated cost or bid limit of the class of license held by the licensee. The aggregate total of bids must include all bids of the subcontractors. Subcontractor bids are not considered a separate bid for the purposes of computing the bid on a given public works project. ( )~~

~~04.d. **Two or More Licensees.** Two (2) or more licensees of the same class or of different classes are not permitted to combine the estimated cost or bid limit of their licenses to submit a bid in excess of the license held by either licensee.( )~~

~~05. **Type 4 License Holder.** The holder of a license for Type 4, Specialty Construction, are entitled to bid a public works project as a prime contractor or as a subcontractor, if more than fifty percent (50%) of the work to be performed by him on such project is covered by a category or categories listed on the license held by the licensee.  
( )~~

~~200. TYPE 4 SPECIALTY CONSTRUCTION CATEGORIES.~~

~~A license for Type 4 Specialty Construction must list one (1) or more specialty construction categories to which the license is restricted. Categories and their definitions are:( )~~

~~01. **01107 Engineering.** A specialty contractor whose primary business includes providing engineering and design services such as civil, electrical, mechanical, and structural.( )~~

~~02. **01541 Scaffolding and Shoring.** A specialty contractor whose primary business is the installation of any temporary elevated platform and its supporting structure used for supporting workmen or materials or both, and props or posts of timber or other material in compression used for the temporary support of excavations, formwork or unsafe structures; the process of erecting shoring.( )~~

~~03. **01542 Craning and Erection.** A specialty contractor whose primary business includes the art, ability and skill to safely control the workings of a crane in such a manner that building materials, supplies, equipment and structural work can be raised and set in a final position.( )~~

~~04. **01550 Construction Zone Traffic Control.** A specialty contractor whose primary business is the installation or removal of temporary lane closures, flagging or traffic diversions, utilizing pilot cars, portable devices~~

such as cones, delineators, barricades, sign stands, flashing beacons, flashing arrow trailers, and changeable message signs on roadways, public streets and highways or public conveyances.( )

~~05. 01570 Temporary Erosion and Sediment Controls. A specialty contractor whose primary business includes the ability and expertise to install silt fencing or other similar devices to prevent erosion and contain silt. ( )~~

~~06. 02110 Excavation, Removal and Handling of Hazardous Material. A specialty contractor whose primary business includes the excavation and removal of toxic and hazardous site materials. Contractors must be properly licensed and certified if required.( )~~

~~07. 02115 Removal of Underground Storage Tanks. A specialty contractor whose primary business includes, but is not limited to, the excavation, removal, cleanup, and disposal of underground storage tanks that have contained petrochemical type fuels. This work should include the sampling and testing of surrounding materials and filing of closure documents.( )~~

~~08. 02195 Environmental Remediation, Restoration and Soil Stabilization. A specialty contractor whose primary business is the remediation and restoration of contaminated environmental sites.( )~~

~~09. 02210 Drilling. A specialty contractor whose primary business includes practical elementary knowledge of geology and hydrology; the art, ability, knowledge, science and expertise to bore, drill, excavate, ease, pack or cement by use of standard practices, including the use of diamond bits, cable tools, percussion, air percussion, rotary, air rotary, reverse circulation rotary methods or jetting.( )~~

~~10. 02220 Demolition. A specialty contractor whose primary business includes the ability and expertise to demolish all types of buildings or structures and to remove all of such buildings or structures from the premises, and maintain the premises surrounding demolition site safely for passing public.( )~~

~~11. 02230 Site Clearing. A specialty contractor whose primary business includes the ability and expertise to remove and dispose of all trees, brush, shrubs, logs, windfalls, stumps, roots, debris and other obstacles in preparation for excavation of a construction site or other uses.( )~~

~~12. 02231 Logging. A specialty contractor whose primary business and expertise includes the clearing, cutting, removal and transportation of logs and trees and the construction of temporary roads and structures for such operations along with any reclamation work associated with such operations.( )~~

~~13. 02232 Tree Removal and Trimming. A specialty contractor whose primary business includes pruning, removal, or guying of trees, limbs, stumps, and bushes including grinding and removal of such items. ( )~~

~~14. 02240 Dewatering and Subsurface Drainage. A specialty contractor whose primary business is to control the level and flow of subsurface water.( )~~

~~15. 02260 Earth Retention Systems, Mechanical Stabilized Earth Walls and Retaining Walls. A specialty contractor whose primary business includes the building of earth retention systems, mechanical stabilized earth walls and retaining walls.( )~~

~~16. 02265 Slurry Walls. A specialty contractor whose primary business is the construction of below ground structural diaphragm walls or containment walls through the combined use of trench excavation, mud slurry and tremie concrete.( )~~

~~17. 02270 Rockfall Mitigation and High Sealing. A specialty contractor whose primary business is rockfall mitigation and high sealing.( )~~

~~18. 02310 Excavation and Grading. A specialty contractor whose primary business includes such work as digging, moving and placing material forming the surface of the earth in such manner that a cut, fill, excavation and any similar excavating operation can be done with the use of hand and power tools and machines that~~

are used to dig, move and place that material forming the earth's surface.(—)

~~19. 02312 Dust Control, Dust Abatement and Dust Oiling. A specialty contractor whose primary business is dust control, dust abatement and dust oiling.(—)~~

~~20. 02317 Rock Trenching. A specialty contractor whose primary business is rock trenching.(—)~~

~~21. 02318 Hauling. A specialty contractor whose primary business includes the ability and expertise to obtain or move specified materials by transportation in a vehicle.(—)~~

~~22. 02319 Blasting. A specialty contractor whose primary business includes the use of conventional and high explosives for pre-splitting, surface, underground and underwater blasting, drill, trench, or excavate for use of explosives; priming and loading drilled, trenched or excavated areas by pipe tamping, pneumatic loading, injector loading, mud capping, slurry loading, combination of pneumatic and injector loading or hand loading; use of volt, ohms and milliamperere meter (VOM) in testing blasting machine output voltage, power line voltage, measuring electric blasting cap or blasting circuit resistance, testing for current leakage, testing for AC-DC stray current and voltage, leading wires for open or short circuits, rack bar blasting machine for running short or galvanometer output voltage; use of blasting caps, electric blasting caps, delay electric blasting caps, primacord and all other detonating devices. (—)~~

~~23. 02325 Dredging. A specialty contractor whose primary business includes the excavation or removal of earth, rock, silt, or sediment from bodies of water including but not limited to streams, lakes, rivers or bays by means of specialized equipment.( ———)~~

~~24. 02404 Horizontal and Directional Earth Boring, Trenching and Tunneling. A specialty contractor whose primary business and expertise includes boring, trenching or tunneling.(—)~~

~~25. 02450 Drilled Piers, Pile Driving, Caisson Drilling, Geopier and Helical Piers. A specialty contractor whose primary business includes drilling piers, pile driving, caisson drilling, Geopier and helical piers. (—)~~

~~26. 02500 Utilities. A specialty contractor whose primary business includes the construction and installation of pipe lines for the transmission of sewage, gas and water, including minor facilities incidental thereto; installation of electrical poles, towers, arms, transformers, fixtures, conduits, conductors, switch gear, grounding devices, panels, appliances and apparatus installed outside of buildings; including excavating, trenching, grading, back fill, asphalt patching as well as all necessary work and installation of appurtenances in connection therewith. (—)~~

~~27. 02520 Well Drilling. A specialty contractor whose primary business includes the practical elementary knowledge of geology, hydrology, the occurrence of water in the ground, water levels in wells, the prevention of surface and sub surface contamination and pollution of the ground water supply; and the art, ability, experience, knowledge, science, and expertise to bore, drill, excavate, case, screen, cement, clean and repair water wells; or to do any or any combination of any or all such boring, drilling, excavating, casing, cementing, cleaning and repairing with hand or power tools or rigs, including the installation and repair of pumps.(—)~~

~~28. 02580 Installation of Communication Towers. A specialty contractor whose primary business and expertise is the installation of communication towers.(—)~~

~~29. 02660 Membrane Liners for Ponds and Reservoirs. A specialty contractor whose primary business includes the installation of liners for the purpose of containment of liquids.(—)~~

~~30. 02720 Crushing. A specialty contractor whose primary business includes the ability and expertise to reduce rocks and aggregates to a smaller and uniform size and gradation to meet an agreed specification.(—)~~

~~31. 02740 Asphalt Paving. A specialty contractor whose primary business includes the installation of aggregate base course, cement treated base, bitumen treated base, asphalt concrete and the application of asphalt surfacing and surface repairs of streets, intersections, driveways, parking lots, tennis courts, running tracks, play~~

areas; including the application or installation of primer coat, asphalt binder course, tack coating, seal coating and chips, slurry seal and chips, flush or flog coats, asphalt curbs, concrete bumper curbs, redwood headers, asphalt surface binder emulsion, asbestos and sand and acrylic color systems. (Synthetic and athletic surfacing are category 02790 Athletic and Recreational Surfaces.) Also includes crack sealing, asphalt maintenance repair and soil pulverization. ( )

~~32. 02761 Traffic Marking and Striping.~~ A specialty contractor whose primary business includes the art, ability and expertise to apply markings to streets, roadways, or parking surfaces pre designed for the use of parking or passage of vehicles by the application of directional lines, buttons, markers, and signs made of but not limited to plastic, paint, epoxies and rubber, in such manner as to provide for the channeling and controlling of the traffic flow. Also includes temporary striping. ( )

~~33. 02785 Asphalt Maintenance and Repair, Seal Coating, Crack Sealing and Chip Sealing.~~ A specialty contractor whose primary business is asphalt maintenance and repair, seal coating, crack sealing and chip sealing. ( )

~~34. 02790 Athletic and Recreational Surfaces.~~ A specialty contractor whose primary business is the installation of specialty surfaces including but not limited to non wood athletic floors, tennis courts, running tracks and artificial turf. This would include any subsurface preparation such as leveling, excavation, fill and compaction or grading. The application of surfacing, mixing, spreading or placing of emulsions, binders, sand and acrylic color systems is also included along with the installation of modular, plastic athletic floors such as "Sport Court" type floors. This category does not include any type of structure required for the installation of these surfaces. ( )

~~35. 02810 Sprinkler and Irrigation Systems.~~ A specialty contractor whose primary business includes the installation of types and kinds of water distribution systems for complete artificial water or irrigation of gardens, lawns, shrubs, vines, bushes, trees and other vegetation, including the trenching, excavating and backfilling in connection therewith. (Low voltage only.) ( )

~~36. 02820 Fencing.~~ A specialty contractor whose primary business includes the installation and repair of any type of fencing. ( )

~~37. 02840 Guardrails and Safety Barriers.~~ A specialty contractor whose primary business includes the installation of guardrails and safety barriers (including cattle guards). ( )

~~38. 02850 Bridges and Structures.~~ A specialty contractor whose primary business includes the installation, alteration and repair of bridges and related structures, including culverts. ( )

~~39. 02855 Bridge Crossings and Box Culverts.~~ A specialty contractor whose primary business is the installation or construction, or both, of any bridge or crossing structure shorter than twenty (20) feet measured on the centerline of the roadway or trail. ( )

~~40. 02880 Installation of School Playground Equipment.~~ A specialty contractor whose primary business is the installation of school playground equipment. ( )

~~41. 02890 Traffic Signs and Signals.~~ A specialty contractor whose primary business includes the art, ability, knowledge, experience, science and expertise to fabricate, install and erect signs, including electrical signs and including the wiring of such signs. A licensed electrician must perform all the electrical work. ( )

~~42. 02900 Landscaping, Seeding and Mulching.~~ A specialty contractor whose primary business includes the preparation of plots of land for architectural, horticulture and provisions of decorative treatment and arrangement of gardens, lawns, shrubs, vines, bushes, trees and other decorative vegetation; construction of conservatories, hot and green houses, drainage and sprinkler systems, and ornamental pools, tanks, fountains, walls, fences and walks, arrange, fabricate and place garden furniture, statuary and monuments in connection therewith. ( )

~~43. 02910 Slope Stabilization, Hydroseeding, Hydromulching, Native Plant Revegetation for Erosion Control.~~ A specialty contractor whose primary business is slope stabilization, including necessary tillage



and plant bed preparation using hydroseeding, hydromulching and native plant revegetation for erosion control.  
(—)

~~44. **02935 Landscape Maintenance.** A specialty contractor whose primary business and expertise includes the maintenance of existing lawns, gardens, and sprinkler systems. This would include mowing, weeding, fertilization, pest control and minor repair or relocation of sprinkler systems.(—)~~

~~45. **02937 Pest Control, Sterilization and Herbicide Applications.** A specialty contractor whose primary business includes the mixing, transportation and application of fertilizers, pesticides, herbicides, and sterilization chemicals for the control of insects, pests and weeds.(—)~~

~~46. **02955 Pipeline Cleaning, Sealing, Lining and Bursting.** A specialty contractor whose primary business and expertise includes cleaning, sealing, lining and bursting pipelines.(—)~~

~~47. **02965 Cold Milling, Rumble Strip Milling, Asphalt Reclaiming and Pavement Surface Grinding.** A specialty contractor whose primary business includes cold milling, rumble strip milling, asphalt reclaiming and pavement surface grinding.(—)~~

~~48. **02990 Structural Moving.** A specialty contractor whose primary business includes but is not limited to raising, lowering, cribbing, underpinning and moving of buildings or structures. This does not include the alterations, additions, repairs or rehabilitation of the retained portion of the structure.(—)~~

~~49. **03200 Concrete Reinforcing Rebar Installation.** A specialty contractor whose primary business includes the ability and expertise to fabricate, place and tie steel mesh or steel reinforcing bars or rods of any profile, perimeter or cross-section that are or may be used to reinforce concrete.(—)~~

~~50. **03300 Concrete.** A specialty contractor whose primary business includes the ability and expertise to process, proportion, batch and mix aggregates consisting of sand, gravel, crushed rock or other inert materials having clean uncoated grains of strong and durable minerals, cement and water or to do any part or any combination of any thereof, in such a manner that acceptable mass, pavement, flat and other cement and concrete work can be poured, placed, finished and installed, including the placing, forming and setting of screeds for pavement or flat work. Also includes concrete sidewalks, driveways, curbs and gutters.(—)~~

~~51. **03370 Specially Placed Concrete, Concrete Pumping and Shotcreting.** A specialty contractor whose primary business includes the ability and equipment necessary to deliver and install concrete, and similar materials to their final destination in buildings and structures.(—)~~

~~52. **03380 Post Tensioned Concrete Structures or Structural Members.** A specialty contractor whose primary business is the post tensioning of structural elements using sleeved tendons of high strength prestressing steel.(—)~~

~~53. **03500 Gypcrete.** A specialty contractor whose primary business includes the ability and expertise to mix and apply gypsum concrete.(—)~~

~~54. **03600 Concrete Grouting.** A specialty contractor whose primary business includes the ability and the equipment necessary to place concrete grouts. Concrete grouts are thin, fluid, shrink resistant, mortar like materials used for filling joints and cavities and setting and anchoring items in masonry and concrete.(—)~~

~~55. **03650 Pressure Grouting and Slab Jacking.** A specialty contractor whose primary business includes pressure foundation grouting and jacking and the injection of concrete or mortar into foundations for stabilization. (—)~~

~~56. **03900 Concrete Demolition, Concrete Sawing and Cutting, Core Drilling, Joint Sealing and Hydrocutting.** A specialty contractor whose primary business includes concrete cutting, drilling, sawing, cracking, breaking, chipping or removal of concrete. This category also includes the caulking or sealing of joints or cracks caused by such operations.(—)~~

~~57. 04000 Masonry. A specialty contractor whose primary business includes the installation with or without the use of mortar or adhesives of brick, concrete block, adobe units, gypsum partition tile, pumice block or other lightweight and faesimile units and products common to the masonry industry.(—)~~

~~58. 04900 Chemical Cleaning and Masonry Restoration. A specialty contractor whose primary business includes the cleaning or restoration of masonry through the use of chemicals, pressure washing, sand blasting or other methods.(—)~~

~~59. 05090 Welding. A specialty contractor whose primary business causes metal to become permanently attached, joined and fabricated by the use of gases or electrical energy, developing sufficient heat to create molten metal, fusing the elements together.(—)~~

~~60. 05100 Steel Fabrication, Erection and Installation. A specialty contractor whose primary business includes the ability and expertise to fabricate, place and tie steel reinforcing bars, erect structural steel shapes and plates, of any profile, perimeter or cross-section, that are or may be used to reinforce concrete or as structural members for buildings and structures, including riveting, welding and rigging only in connection therewith, in such a manner that steel reinforcing and structural work can be fabricated and erected.(—)~~

~~61. 05700 Ornamental Metals. A specialty contractor whose primary business includes the art, ability, experience, knowledge, science and expertise to assemble, case, cut, shape, stamp, forage, fabricate and install sheet, rolled and cast, brass, bronze, copper, cast iron, wrought iron, monel metal, stainless steel, and any other metal or any combination thereof, as have been or are now used in the building and construction industry for the architectural treatment and ornamental decoration of buildings and structures, in such a manner that, under an agreed specification, acceptable ornamental metal work can be executed, fabricated and installed; but does not include the work of a sheet metal contractor.(—)~~

~~62. 05830 Bridge Expansion Joints and Repair. A specialty contractor whose primary business and expertise is the repair of bridge expansion joints.(—)~~

~~63. 06100 Carpentry, Framing and Remodeling. A specialty contractor whose primary business includes the placing and erection of floor systems, walls, sheeting, siding, trusses, roof decking of either wood or light gauge metal framing. This contractor also installs finish items such as running trim, sashes, doors, casing, cabinets, cases and other pre-manufactured finished items.(—)~~

~~64. 06130 Log and Heavy Timber Construction. A specialty contractor whose primary business includes the ability and expertise to build and erect log or heavy timber structures.(—)~~

~~65. 06139 Docks—Log and Wood Structures. A specialty contractor whose primary business includes the ability and expertise to construct log and wood structured docks.(—)~~

~~66. 06200 Finish Carpentry and Millwork. A specialty contractor whose primary business includes the art, ability, experience, knowledge, science and expertise to cut, surface, join, stick, glue and frame wood and wood products, in such a manner that, under an agreed specification, acceptable cabinet, case, sash, door, trim, nonbearing partition, and such other mill products as are by custom and usage accepted in the building and construction industry as millwork and fixtures, can be executed; including the placing, erecting, fabricating and finishing in buildings, structures and elsewhere of such millwork and fixtures or to do any part or any combination of any thereof. (—)~~

~~67. 07100 Waterproofing and Dampproofing. A specialty contractor whose primary business includes the ability and expertise to apply waterproofing membranes, coatings of rubber, latex, asphaltum, pitch, tar or other materials or any combination of these materials, to surfaces to prevent, hold, keep and stop water, air or steam from penetrating and passing such materials, thereby keeping moisture from gaining access to material or space beyond such waterproofing.(—)~~

~~68. 07200 Thermal Insulation. A specialty contractor whose primary business includes the installation of any insulating media in buildings and structures for the purpose of temperature control.(—)~~

~~69. **07240 Stucco and Exterior Insulation Finish Systems (EIFS).** A specialty contractor whose primary business includes the ability and expertise to install Stucco and EIFS.(—)~~

~~70. **07400 Roofing and Siding.** A specialty contractor whose primary business includes the ability and expertise to examine surfaces and to bring such surfaces to a condition where asphaltum, pitch, tar, felt, flax, shakes, shingles, roof tile, slate and any other material or materials or any combination thereof, that use and custom has established as usable for, or which material or materials are now used as, such waterproof, weatherproof or watertight seal for such membranes, roof and surfaces; but does not include a contractor whose sole contracting business is the installation of devices or stripping for the internal control of external weather conditions.(—)~~

~~71. **07450 Siding and Decking.** A specialty contractor whose primary business includes the application or installation of exterior siding, decking or gutters including wood, wood products, vinyl, aluminum and metal to new or existing buildings and includes wooden decks and related handrails. (This category does not include the construction or installation of covers or enclosures of any kind).(—)~~

~~72. **07700 Sheet Metal Flashings, Roof Specialties and Accessories.** A specialty contractor whose primary business includes the art, ability, experience, knowledge, science and expertise to select, cut, shape, fabricate and install sheet metal such as cornices, flashings, gutters, leaders, rainwater down spouts, pans, etc., or to do any part or any combination thereof, in such a manner that sheet metal work can be executed, fabricated and installed.(—)~~

~~73. **07800 Sprayed on Fireproofing.** A specialty contractor whose primary business includes the mixing, transportation, and installation of fire proofing materials for buildings and structures.(—)~~

~~74. **07920 Caulking and Joint Sealants.** A specialty contractor whose primary business includes the ability and expertise for installation of elastomeric and rigid joint sealants, caulking compounds, and related accessories. (—)~~

~~75. **08100 Doors, Gates, Specialty Doors and Activating Devices.** A specialty contractor whose primary business is the installation, modification or repair of residential, commercial or industrial doors and door hardware. This includes but is not necessarily limited to wood, metal clad or hollow metal, glass, automatic, revolving, folding and sliding doors, power activated gates, or movable sun shades/shutters. Card activated equipment and other access control devices and any low voltage electronic or manually operated door hardware devices are also a part of this category.(—)~~

~~76. **08500 Windows, Glass and Glazing.** A specialty contractor whose primary business includes the art, ability, experience, knowledge and expertise to select, cut, assemble and install all makes and kinds of glass and glass work, and execute the glazing of frames, panels, sash and doors, in such a manner that under an agreed specification, acceptable glass work and glazing can be executed, fabricated and installed, and may include the fabrication or installation in any building or structure of frames, glazed in panels, sash or doors, upon or within which such frames, glazed in panels, sash or doors, such glass work or glazing has been or can be executed or installed.( )~~

~~77. **09110 Steel Stud Framing.** A specialty contractor whose primary business includes the ability and expertise to build or assemble steel stud framing systems.(—)~~

~~78. **09200 Lath and Plaster.** A specialty contractor whose primary business includes the ability and expertise to prepare mixtures of sand, gypsum, plaster, quick lime or hydrated lime and water or sand and cement and water or a combination of such other materials as create a permanent surface coating; including coloring for same and to apply such mixtures by use of a plaster's trowel, brush or spray gun to any surface which offers a mechanical key for the support of such mixture or to which such mixture will adhere by suction; and to apply wood or metal lath or any other materials which provide a key or suction base for the support of plaster coatings; including the light gauge metal shapes for the support of metal or other fire proof lath. Includes metal stud framing.(—)~~

~~79. **09250 Drywall.** A specialty contractor whose primary business includes the ability and expertise to install unfinished and prefinished gypsum board on wood and metal framing and on solid substrates; gypsum and cementitious backing board for other finishes; accessories and trim; and joint taping and finishing.(—)~~

~~80. **09300 Tile and Terrazzo.** A specialty contractor whose primary business includes the ability and expertise to examine surfaces and bring such surfaces to a condition where acceptable work can be executed and fabricated thereon by the setting of chips or marble, stone, tile or other material in a pattern with the use of cement, and to grind or polish the same.(—)~~

~~81. **09500 Acoustical Treatment.** A specialty contractor whose primary business includes the installation, application, alteration and repair of all types of acoustical systems, to include acoustical ceilings, wall panels, sound control blocks and curtains, hangers, clips, inserts, nails, staples, related hardware and adhesive, lightweight framing systems and related accessories (electrical excluded), installation and repair of gypsum wall board, painting, accessories, taping and texturing.(—)~~

~~82. **09600 Flooring.** A specialty contractor whose primary business includes the ability and expertise to examine surfaces, specify and execute the preliminary and preparatory work necessary for the installation of flooring, wherever installed, including wood floors and flooring (including the selection, cutting, laying, finishing, repairing, scraping, sanding, filling, staining, shellacking and waxing) and all flooring of any nature either developed as or established through custom and usage as flooring.(—)~~

~~83. **09680 Floor Covering and Carpeting.** A specialty contractor whose primary business includes the installation, replacement and repair of floor covering materials, including laminates and including preparation of surface to be covered, using tools and accessories and industry accepted procedures of the craft.(—)~~

~~84. **09900 Painting and Decorating.** A specialty contractor whose primary business includes the ability and expertise to examine surfaces and execute the preliminary and preparatory work necessary to bring such surfaces to a condition where acceptable work can be executed thereon with the use of paints, varnishes, shellacs, stains, waxes, paper, oilcloth, fabrics, plastics and any other vehicles, mediums and materials that may be mixed, used and applied to the surface of buildings, and the appurtenances thereto, of every description in their natural condition or constructed of any material or materials whatsoever that can be painted or hung as are by custom and usage accepted in the building and construction industry as painting and decorating.(—)~~

~~85. **09950 Sand Blasting.** A specialty contractor whose primary business includes the ability and expertise to sand blast surfaces through the use of equipment designed to clean, grind, cut or decorate surfaces with a blast of sand or other abrasive applied to such surfaces with steam or compressed air.(—)~~

~~86. **09960 Specialty Coatings.** A specialty contractor whose primary business includes the surface preparation and installation of specialty coatings.(—)~~

~~87. **10150 Institutional Equipment.** A specialty contractor whose primary business includes the installation, maintenance and repair of booths, shelves, laboratory equipment, food service equipment, toilet partitions, and such other equipment and materials as are by custom and usage accepted in the construction industry as institutional equipment.(—)~~

~~88. **10270 Raised Access Flooring.** A specialty contractor whose primary business includes the installation of wood or metal framed elevated computer flooring systems. This does not include the structural floor on which the computer floor is supported or mezzanines.(—)~~

~~89. **10445 Non-Electrical Signs.** A specialty contractor whose primary business includes the installation of all types of non-electrical signs, including but not limited to traffic delineators, mile post markers, post or pole supported signs, signs attached to structures, painted wall signs, and modifications to existing signs.  
(—)~~

~~90. **11001 Specialty Machinery and Equipment Installation and Servicing.** A specialty contractor whose primary business is the installation, removal, modification or repair of pumps, water and waste water equipment, conveyors, cranes, dock levelers, various hoisting and material handling equipment, trash compactors and weighing scales installation and servicing. This does not include the construction of buildings or roof structures for this equipment.(—)~~

~~91. **11140 Petroleum and Vehicle Service Equipment, Installation and Repair.** A specialty~~

contractor whose primary business includes the installation and repair of underground fuel storage tanks used for dispensing gasoline, diesel, oil or kerosene fuels. This includes installation of all incidental tank related piping, leak line detectors, vapor recovery lines, vapor probes, low voltage electrical work, associated calibration, testing and adjustment of leak detection and vapor recovery equipment, and in-station diagnostics. This contractor may also install auto hoisting equipment, grease racks, compressors, air hoses and other equipment related to service stations.  
(—)

~~92. 11200 Water/Wastewater and Chemical Treatment.~~ A specialty contractor whose primary business is the supply, installation and operational startup of equipment and chemicals for chemical treatment of water, wastewater or other liquid systems.(—)

~~93. 11485 Climbing Wall Structures and Products.~~ A specialty contractor whose primary business includes the ability and expertise to design, fabricate and install climbing wall structures and equipment. This does not include concrete foundations or buildings in which the climbing walls may be supported or housed.(—)

~~94. 12011 Prefabricated Equipment and Furnishings.~~ A specialty contractor whose primary business includes the installation of prefabricated products or equipment including but not limited to the following: theater stage equipment, school classroom equipment, bleachers or seats, store fixtures, display cases, toilet or shower room partitions or accessories, closet systems, dust collecting systems, appliances, bus stop shelters, telephone booths, sound or clean rooms, refrigerated boxes, office furniture, all types of pre finished, pre wired components, detention equipment and other such equipment and materials as are by custom and usage accepted in the construction industry as prefabricated equipment.(—)

~~95. 12490 Window, Wall Coverings, Drapes and Blinds.~~ A specialty contractor whose primary business includes the installation of decorative, architectural or functional window glass treatments or covering products or treatments for temperature control or as a screening device.(—)

~~96. 13110 Cathodic Protection.~~ A specialty contractor whose primary business is the prevention of corrosion by using special cathodes and anodes to circumvent corrosive damage by electric current.(—)

~~97. 13121 Pre-Manufactured Components and Modular Structures.~~ A specialty contractor whose primary business includes the moving, setup, alteration or repair of pre-manufactured components, houses or similar modular structures.(—)

~~98. 13125 Pre-Engineered Building Kits.~~ A specialty contractor whose primary business includes the assembly of pre-engineered building kits or structures obtained from a single source. This category is limited to assembly only of pre-engineered metal buildings, pole buildings, sunrooms, geodesic structures, aluminum domes, air supported structures, manufactured built greenhouses or similar structures. This does not include any other categories such as concrete foundations, carpentry, plumbing, heating or cooling, or electrical work.(—)

~~99. 13150 Swimming Pools and Spas.~~ A specialty contractor whose primary business includes the ability to construct swimming pools, spas or hot tubs including excavation and backfill of material, installation of concrete, Gunitite, tile, pavers or other special materials used in pool construction. This category also includes the installation of heating and filtration equipment, using those trades or skills necessary for installing the equipment, which may require other licenses including electrical and plumbing.(—)

~~100. 13165 Aquatic Recreational Equipment.~~ A specialty contractor whose primary business includes the ability and expertise to design, fabricate and erect water slides and water park equipment and structures. This does not include any other categories such as concrete foundations, carpentry, plumbing, heating, cooling or electrical work.  
(—)

~~101. 13201 Circular Prestressed Concrete Storage Tanks (Liquid and Bulk).~~ A specialty contractor whose primary business is the construction of circular prestressed concrete structures post tensioned with circumferential tendons or wrapped circular prestressing.(—)

~~102. 13280 Hazardous Material Remediation.~~ A specialty contractor whose primary business includes the ability and expertise to safely encapsulate, remove, handle or dispose of hazardous materials within buildings,

including but not limited to asbestos, lead and chemicals. Contractors must be properly licensed and certified.(—)

~~**103. 13290 Radon Mitigation.** A specialty contractor whose primary business and expertise includes the detection and mitigation of Radon gas.(—)~~

~~**104. 13800 Instrumentation and Controls.** A specialty contractor whose primary business includes the installation, alteration or repair of instrumentation and control systems used to integrate equipment, sensors, monitors' controls and mechanical operators for industrial processes, building equipment, mechanical devices and related equipment.(—)~~

~~**105. 13850 Alarm Systems.** A specialty contractor whose primary business includes the installation, alteration and repair of communication and alarm systems, including the mechanical apparatus, devices, piping and equipment appurtenant thereto (except electrical).(—)~~

~~**106. 13930 Fire Suppression Systems (Wet and Dry Pipe Sprinklers).** A specialty contractor whose primary business includes the ability and expertise to lay out, fabricate and install approved types of Wet Pipe and Dry Pipe fire suppression systems, charged with water, including all mechanical apparatus, devices, piping and equipment appurtenant thereto. Licensure with State Fire Marshal is required.(—)~~

~~**107. 13970 Fire Extinguisher and Fire Suppression Systems.** A specialty contractor whose primary business is the installation of pre-engineered or pre-manufactured fixed chemical extinguishing systems primarily used for protecting kitchen cooking equipment and electrical devices. Contractor also furnishes, installs and maintains portable fire extinguishers.(—)~~

~~**108. 14200 Elevators, Lifts and Hoists.** A specialty contractor whose primary business includes the ability to safely and efficiently install, service and repair all elevators, lifts, hoists, including the fabrication, erection and installation of sheave beams, sheave motors, cable and wire rope, guides, cabs, counterweights, doors, sidewalk elevators, automatic and manual controls, signal systems and other devices, apparatus and equipment appurtenant to the installation. (—)~~

~~**109. 15100 Pipe Fitter and Process Piping.** A specialty contractor whose primary business is the installation of piping for fluids and gases or materials. This category does not include domestic water, sewage, fire protection and utilities as they are covered under other categories.(—)~~

~~**110. 15400 Plumbing.** A specialty contractor whose primary business includes the ability to create and maintain sanitary conditions in buildings, by providing a permanent means for a supply of safe, pure and wholesome water, ample in volume and of suitable temperatures for drinking, cooking, bathing, washing, cleaning, and to cleanse all waste receptacles and like means for the reception, speedy and complete removal from the premises of all fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, including a safe and adequate supply of gases for lighting, heating, and industrial purposes. (Licensure with Division of Building Safety is required).(—)~~

~~**111. 15510 Boiler and Steam Fitting.** A specialty contractor who installs, services and repairs boilers and associated steam distribution systems. This category is limited to work not requiring a heating, ventilating, and air conditioning (HVAC) license issued by the Division of Building Safety.(—)~~

~~**112. 15550 Chimney Repair.** A specialty contractor whose primary business includes the cleaning or repair of multi-type chimneys, flues or emission control devices used to conduct smoke and gases of combustion from above a fire to the outside area.(—)~~

~~**113. 15600 Refrigeration.** A specialty contractor whose primary business includes the art, ability, experience, knowledge, science and expertise to construct, erect, install, maintain, service and repair devices, machinery and units for the control of air temperatures below fifty (50) degrees Fahrenheit in refrigerators, refrigerator rooms, and insulated refrigerated spaces and the construction, erection, fabrication and installation of such refrigerators, refrigerator rooms, and insulated refrigerator spaces, temperature insulation, air conditioning units, ducts, blowers, registers, humidity and thermostatic controls of any part or any combination thereof, in such a manner that, under an agreed specification acceptable refrigeration plants and units can be executed, fabricated, installed,~~

~~maintained, serviced and repaired, but does not include those contractors who install gas fuel or electric power services for such refrigerator plants or other units.(—)~~

~~**114. 15700 Heating, Ventilation, and Air Conditioning (HVAC).** A specialty contractor whose primary business includes the installation, alteration and repair of heating, ventilating, and air conditioning (HVAC) systems. Licensure by the Division of Building Safety as an HVAC contractor is required.(—)~~

~~**115. 15950 Testing and Balancing of Systems.** A specialty contractor whose primary business includes the installation of devices and performs any work related to providing for a specified flow of air or water in all types of heating, cooling or piping systems.(—)~~

~~**116. 16000 Electrical.** A contractor engaging in, conducting, or carrying on the business of installing wires or equipment to carry electric current or installing electrical apparatus to be operated by such current. A contractor licensed in this category may perform all work covered in categories defined in Subsection 200.118 of these rules. A contractor in this category must be an electrical contractor, licensed pursuant to Section 54-1007(1), Idaho Code. (—)~~

~~**117. 16700 Communication.** A specialty contractor whose primary business includes the installation, alteration or repair of communication systems (voice, data, television, microwave, and other communication systems). (—)~~

~~**118. 16800 Limited Electrical Contractor.** A contractor engaging in, conducting, or carrying on the business of installing, altering, or repairing special classes of electrical wiring, apparatus, or equipment. A contractor in this category must be an electrical specialty contractor, licensed pursuant to Section 54-1007(1), Idaho Code, and may perform only that work included within the specialty license. Electrical specialty categories include, but are not limited to: (—)~~

- ~~a. Elevator, Dumbwaiter, Escalator or Moving walk Electrical;(—)~~
- ~~b. Sign Electrical;(—)~~
- ~~e. Manufacturing or Assembling Equipment;(—)~~
- ~~d. Limited Energy Electrical License (low voltage);(—)~~
- ~~e. Irrigation Sprinkler Electrical;(—)~~
- ~~f. Well Driller and Water Pump Installer Electrical; and(—)~~
- ~~g. Refrigeration, Heating and Air Conditioning Electrical Installer.(—)~~

~~**119. 18100 Golf Course Construction.** A specialty contractor whose primary business includes the construction, modification, and maintenance of golf courses. This includes clearing, excavation, grading, landscaping, sprinkler systems and associated work. This does not include the construction of buildings or structures such as clubhouses, maintenance or storage sheds.(—)~~

~~**120. 18200 Underwater Installation and Diving.** A specialty contractor whose primary business is marine construction under and above water.(—)~~

~~**121. 18300 Develop Gas and Oil Wells.** A specialty contractor whose primary business includes the ability and expertise to perform oil well drilling and other oil field related specialty work. This does not include water well drilling.(—)~~

~~**122. 18400 Nonstructural Restoration After Fire or Flood.** A specialty contractor whose primary business includes cleaning and nonstructural restoration after fire, flood or natural disasters.(—)~~

~~**123. 18600 Building Cleaning and Maintenance.** A specialty contractor whose primary business~~

~~includes the cleaning and maintenance of a structure designed for the shelter, enclosure and support of persons, chattels, personal and moveable property of any kind.( )~~

~~**124. 18700 Snow Removal.** A specialty contractor whose primary business includes the plowing, removal or disposal of snow from roads, streets, parking lots and other areas of the public rights of way.( )~~

~~**125. 18800 Roadway Cleaning, Sweeping and Mowing.** A specialty contractor whose primary business includes the clearing of trash and debris by manual or automated means from public thoroughfares. This category also includes cutting or mowing of grasses, plants, or weeds from public rights of way.( )~~

**400.201. FEES.**

**01. Public Works Contractor. Licensing Fees.** In accordance with Section 54-1904, Idaho Code, fees for each class of public works contractor licenses are as provided below.

<b>TABLE 201.01 – INITIAL AND RENEWAL LICENSING FEES</b>		
<b>License Class</b>	<b>Initial Fee</b>	<b>Renewal Fee</b>
Unlimited	\$550	\$440
AAA	\$450	\$360
AA	\$350	\$280
A	\$250	\$160
B	\$150	\$120
CC	\$125	\$100
C	\$100	\$80
D	\$50	\$40

( )

**02. Construction Manager. Licensing Fees.** Fees for construction manager licenses are, in accordance with Section 54-4510, Idaho Code, as follows:( )

<b>TABLE 201.02 – CONSTRUCTION MANAGER LICENSING FEES</b>	
<b>License Activity</b>	<b>Fee</b>
Initial Licensing	\$200
License Renewal	\$200
Inactive License	\$50
License Reinstatement	\$200
<del>Exam Administration</del>	<del>Fee established by testing agency</del>
Certificate of Authority	\$100



~~03. Payment of Fees. Fees are payable to "Division of Building Safety—Public Works Contractors."~~  
( )

~~04. Application Filed With Fees. An application filed without the listed fees is deemed incomplete and returned to the applicant.~~( )

~~202. COMPLAINTS.~~

~~Complaints alleging a violation of Title 54, Chapter 19, Idaho Code, or these rules must be in writing and filed with the administrator. All complaints must be verified and submitted on forms provided by the Board.~~( )

~~203.—299.(RESERVED)~~

~~300.~~ **200. PRACTICE STANDARDS**

**01. BUSINESS ORGANIZATION -- CHANGES IN ORGANIZATION OR STRUCTURE -- MEMBERS OF JOINT VENTURES - CHANGES FOR REASONS OTHER THAN DEATH.**

A licensed public works contractor or construction manager who undergoes a change in business organization or structure (such as a change from an individual proprietor to a partnership, corporation, limited liability partnership, limited liability company, joint venture, or other combination thereof), or where there is a change in ownership, must file an application for a new license on behalf of such successor organization or new owners within sixty (60) days after such change occurs. The administrator may authorize the continuous operation of the licensee as a contractor during the interim period until the application of the successor organization is reviewed; provided written notice of such change is filed within thirty (30) days after such change occurs. Each participant in a joint venture must be licensed at the time of bidding. Where there is a change in the surviving members of a licensed partnership, limited liability company, or limited liability partnership, due to a reason other than the death of one (1) of the partners, the remaining or succeeding member or members are required to file an application for an original license.  
( )

~~301.—399.(RESERVED)~~

~~400. CERTIFICATES—DISPLAY AND POSSESSION.~~

~~Licensee must sign and display the license certificate issued to him in his main office or chief place of business and must furnish satisfactory evidence of the possession of a current license upon the administrator's demand.~~( )

~~401.~~

**02. LICENSE NUMBER ON BIDS.**

Licensee must place his license number on any and all bids submitted or contracts entered into, for any public works projects in the state of Idaho.( )

~~402.~~

**03. CHANGES IN LICENSE CERTIFICATE.**

**a.** When any change in the license certificate has been approved by the Board, a new license certificate will be issued.  
( )

~~403.—501.(RESERVED)~~

~~502. TECHNICALITIES OF FORM.~~

~~The administrator may, during any hearing or proceeding waive any technicalities of form not deemed necessary in the circumstances.~~( )

~~503. HEARINGS.~~

~~The general procedure for hearings before the administrator and the Board is as prescribed in these rules and Title 67,~~

~~Chapter 52, Idaho Code. (—)~~

~~**01.** **Notes.** Any interested persons may request, in writing, five (5) days before any scheduled hearing in a contested case that the oral proceedings thereof be taken in the form of stenographic notes to be transcribed at his own expense. (—)~~

~~**02.** **Procedure.** The Board reserves the right to amend, modify or repeal all or any part of the above procedure or to dispense with any part thereof, at any hearing before the Board, as it may deem necessary in the circumstances. (—)~~

~~**504.—599.(RESERVED)**~~

~~**600.**~~

**06. CONSTRUCTION MANAGER EXAMINATIONS.**

**a.** If the applicant fails an examination, the applicant may take the examination a second time. A grade of at least seventy-five percent (75%) is required to pass each section of the examination. If the applicant fails to score a passing grade, the applicant must pass all failed sections within one (1) year of the initial test date. If the applicant fails to achieve a passing grade in each individual section on the second examination, the applicant must wait one (1) full year for a period set by the Administrator before taking the examination again. The applicant must then take and pass all sections of the examination. ~~(receiving no credit for sections successfully completed during the previous year).~~( )

~~**601.—999.(RESERVED)**~~

# **IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES**

## **24.40.01 – RULES FOR THE BOARD OF NATUROPATHIC HEALTH CARE**

### **DOCKET NO. 24-4001-2301 (NEW CHAPTER, FEE RULE)**

#### **NOTICE OF RULEMAKING – PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, and Sections 54-5904, 54-5909, 67-2614, 67-9406 and 67-9409, Idaho Code.

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

<b>Thursday, September 14, 2023, 10:00 a.m. MT</b>
<b>Division of Occupational and Professional Licenses Chinden Campus Building 4 11341 W. Chinden Blvd., Bldg. #4 Boise, ID 83714</b>
<b>Telephone and web conferencing information will be posted on: <a href="https://dopl.idaho.gov/calendar/">https://dopl.idaho.gov/calendar/</a> and <a href="https://townhall.idaho.gov/">https://townhall.idaho.gov/</a></b>

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

**DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rulemaking is being presented to address legislative changes made through Senate Bill 1330 during the 2022 legislative session. The legislative changes, which went into effect on July 1, 2022, resulted in the creation of a new statutory chapter: Chapter 59, Title 54, Idaho Code. They also included the creation of a new licensure authority, the Naturopathic Health Care Board, new licensure and registration types, and authority for the board to promulgate rules related to the new naturopathic license and naturopathic registration. In conjunction with stakeholders, the proposed rule is an effort to give effect and meaning to the statutory changes.

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

The fees for licenses and registrations as designated in Rule 400 of these proposed rules are authorized in Sections 54-5904 and 54-5909, Idaho Code. The fee for licensure, both initial and annual renewal, is set at \$400. The fee for registration, both initial and annual renewal, is set at \$250.

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

This rulemaking is not anticipated to have any negative fiscal impact on the State General Fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted under Docket No. 24-4001-2301. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 5, 2023, Idaho Administrative Bulletin, [Vol. 23-7, pp.98-99](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this proposed rule, contact Katie Stuart, Bureau Chief, at (208) 577-2489. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2023.

DATED this 4th day of August, 2023.

Katie Stuart  
Bureau Chief  
11341 W. Chinden Blvd., Bldg. #4  
Boise, ID 83714  
Phone: (208) 577-2489  
Email: [katie.stuart@dopl.idaho.gov](mailto:katie.stuart@dopl.idaho.gov)

**THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 24-4001-2301**  
**(New Chapter)**

**24.40.01 – RULES FOR THE BOARD OF NATUROPATHIC HEALTH CARE**

**000. LEGAL AUTHORITY.**

These rules are promulgated pursuant to Sections 54-5904 and 54-5909(4), Idaho Code. ( )

**001. SCOPE.**

These rules govern the practice of licensed naturopathic doctors and registered naturopaths in Idaho. ( )

**002. -- 099. (RESERVED)**

**100. LICENSURE.**

**01. Approved Examination.** The Naturopathic Doctors Licensing Examination (NDLEX) administered by the National Board of Naturopathic Examiners, or a naturopathic competency examination administered by the American Naturopathic Medical Certification Board. ( )

**02. Continuing Education.** To renew, licensees must complete, during the prior licensing period, and retain proof of completion of twenty (20) hours of continuing education germane to health care. To renew, registrants must complete, during the prior registration period, and retain proof of completion of twelve (12) hours of continuing education germane to health care. ( )

**101. -- 399. (RESERVED)**

**400. FEES.**

<u>FEE TYPE</u>	<u>INITIAL</u>	<u>ANNUAL RENEWAL</u>
<u>Licensure</u>	<u>\$400</u>	<u>\$400</u>
<u>Registration</u>	<u>\$250</u>	<u>\$250</u>

( )

401. --999.      (RESERVED)

**IDAPA 29 – IDAHO POTATO COMMISSION**  
**29.01.01 – RULES OF THE IDAHO POTATO COMMISSION**  
**DOCKET NO. 29-0101-2301 (ZBR CHAPTER REWRITE)**  
**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This action is authorized pursuant to Section 67-1207(1), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 20, 2023. The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a statement in nontechnical language of the substance and purpose of the proposed rulemaking:

Under [Executive Order 2020-01: Zero-Based Regulation](#), the Idaho Potato 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. The rule changes are intended to perform a comprehensive review of this chapter by collaborating with the public to streamline or simplify this rule language.

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

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: None

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 2023 Idaho Administrative Bulletin, [Volume 23-5, page 170](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning the proposed rulemaking contact Sam Eaton at (208) 334-2350. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on IPC's web site at the following web address: <https://idahopotato.com/industry>.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be submitted online at <https://idahopotato.com/industry> or directed to the undersigned and must be delivered on or before September 27, 2023.

DATED this 1st day of September, 2023.

Sam Eaton, VP Legal & Government Affairs  
Idaho Potato Commission  
661 South Rivershore Lane, Suite 230  
Eagle, Idaho 83616  
(208) 334-2350

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 29-0101-2301**  
**(ZBR Chapter Rewrite)**

**29.01.01 – RULES OF THE IDAHO POTATO COMMISSION**

**000. LEGAL AUTHORITY.**

~~These rules are adopted under the general legal authority of the Idaho Potato Commission Law, Chapter 12, Title 22, Section 22-1207(1) Idaho Code.~~ (3-31-22)( )

**001. ~~TITLE AND SCOPE.~~**

~~01. Title. The title of this chapter is IDAPA 29.01.01, “Rules of the Idaho Potato Commission.”~~ (3-31-22)

~~02. Scope. These rules govern payment of taxes to the Idaho Potato Commission (the Commission); records to be kept by growers, dealers, handlers, shippers, processors, container manufacturers, and out-of-state repackers of Idaho® potatoes; use of Certification Marks and Trademarks owned or administered by the Commission; branding of individual potatoes, state brand grade and packing requirements, reporting, labeling and revocation, and additional labeling requirements. These rules govern all procedure before the Idaho Potato Commission (the Commission).~~ (3-31-22)( )

**002. (RESERVED)**

**003. ADMINISTRATIVE PROCEEDINGS AND APPEALS.**

~~Administrative proceedings and appeals are administered by the Commission in accordance with the “Idaho Rules of Administrative Procedure of the Attorney General.” IDAPA 04.11.01, Subchapter B—Contested Cases, Sections 100 through 800, which for the purpose of Section 22-1201 et seq., Idaho Code, will be known as Rules of Practice and Procedure of the Idaho Potato Commission Governing Contested Cases. Whenever these rules address the same subject matter as IDAPA 04.11.01, the specific provisions of these rules govern. There are no provisions for administrative appeals within the Commission under these rules of procedure, except that under Sections 202 and 203 a presiding officer may in the presiding officer's discretion refer a ruling on evidence or a motion to the full Commission.~~ (3-31-22)( )

**004. -- 010. (RESERVED)**

**010. DEFINITIONS.**

The terms defined in Section 22-1204, Idaho Code, apply to this chapter. In addition, the following terms are defined as follows: ( )

~~01. Primary Channel of Trade. Potatoes are deemed to be delivered for shipment into the primary channel of trade when any such potatoes are sold or delivered for shipment, or delivered for canning and/or processing into by-products.~~ ( )

**011. -- 099. (RESERVED)**

**100. GENERAL.**

~~01. Potato Tax. All potatoes grown in Idaho, no matter how grown (i.e. by conventional, organic, or other methods) and no matter what variety (i.e. russet, red, yellow, specialty, or other variety) are subject to the potato tax imposed by Section 22-1211, Idaho Code.~~ (3-31-22)

~~02. Potato Tax Base Rate and Additional Tax. A base tax of four cents (\$0.04) per hundredweight is~~

~~imposed by statute on all potatoes grown in Idaho. In addition, an additional tax of eleven cents (\$0.11) per hundredweight may be imposed upon a determination by at least two thirds (2/3) of commission members that the anticipated expenditures for the fiscal year following the year in which the determination is made will exceed the anticipated tax revenues to be collected from the four cents (\$0.04) base tax rate. (3-31-22)~~

~~**03. Potato Tax Due Date and Responsible Party.** The potato tax is due when potatoes are first handled in the primary channels of trade and must be paid not later than the fifteenth day of the next month. The first person selling or otherwise delivering potatoes into primary channels of trade is responsible for and must pay the full potato tax. However, if the first person is a dealer or shipper handling potatoes grown by another, he may charge back to the person he acquired the potatoes from sixty percent (60%) of the potato tax. The charge back does not reduce the first person's tax liability due to the commission. (3-31-22)~~

~~**041. Growers', Dealers', Handlers', Shippers', Processors', Container Manufacturers', and Out-of-State Repackers' Records.** Idaho Potato Commission Tax Report Forms—Audits—Inspections Every dealer or handler shall keep a complete and accurate record of all potatoes handled in the primary channels of trade in such form as the Commission or their designee prescribes. Each grower, dealer, handler, shipper, processor, container manufacturer, and out-of-state repacker shall keep records that segregates purchases and sales of Idaho® potatoes by calendar month; records of inventories of Idaho® potatoes by calendar month; and records of inventories of containers bearing the registered Certification Marks of the Commission by calendar month. Such records shall be preserved for a minimum period of two (2) years and be open to inspection at any time upon written or oral request or demand by the Commission or its duly authorized agents, representatives, or employees. (3-31-22)(\_\_\_\_\_)~~

~~**a.** Every dealer or handler including out of state repackers shall keep a complete and accurate record of all potatoes handled in the primary channels of trade in such form as the Commission or their designee prescribes. (3-31-22)~~

~~**b.** In addition to such other information that the Executive Director, duly authorized agent, representative or employee requires, each grower, dealer, handler, shipper, processor, container manufacturer, and out of state repacker shall keep records that segregates purchases and sales of Idaho® potatoes by calendar month; records of inventories of Idaho® potatoes by calendar month; and records of inventories of containers bearing the registered Certification Marks of the Commission by calendar month. Such records shall be preserved for a minimum period of two (2) years and be open to inspection at any time upon written or oral request or demand by the Commission or its duly authorized agents, representatives, or employees. (3-31-22)~~

~~**e.** The Commission's duly authorized agent, representative or employee may enter upon the premises of any grower, dealer, handler, out of state repacker, container manufacturer, processor or any other license agreement holder of Idaho® potatoes and examine or cause to be examined any books, papers, records, ledgers, purchase journals, sales journals, electronically and/or magnetically recorded data, computers and computer records or memoranda bearing upon the amount of taxes payable or the correct usage of any Idaho Trade or Certification Mark, and to secure any other information directly or indirectly concerned with the enforcement of Chapter 12, Title 22, Idaho Code, all rules adopted pursuant thereto and all licensing agreements entered into with the Commission. The Commission's duly authorized agents, representatives or employees may also inspect and take samples of any potatoes, potato products or containers from the premises used by a grower, dealer, handler, shipper, processor, container manufacturer, or out of state repacker. Regular audits shall be routinely performed by the Commission or its duly authorized agents, representatives, or employees to assure adherence with these rules. In addition, compliance audits may take place at any time. For further requirements see Section 22-1212, Idaho Code. (3-31-22)~~

~~**052. Calculation of Tax Due.** All first handlers of Idaho® Grown potatoes shall pay the total tax due on all potatoes handled by them on a net weight basis. Net weight shall be determined by subtracting from the gross scale weight the dirt, rock, other foreign material only, and potatoes that are not used for human consumption. The amount of tax due is the tax rate currently ~~imposed pursuant to Section 100.03 set by the Commission~~ multiplied by the net hundredweight (cwt). ~~The following diagram illustrates the manner in which the formula is to be applied:~~~~



Gross- Scale- Weight	Less	Dirt, rock, other- foreign material, and potatoes not used for human consumption	=	Net CWT (Hundred- weight) upon which tax is due	X	Tax- Rate	=	Tax Amount Due
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(3-31-22)( )

**063. Tax Reports to Be Made by Growers, Dealers, Handlers, Shippers and Processors.** A report ~~on a form approved by the Commission~~, showing total weight handled for a given period of time and ~~the Idaho Potato Commission potato~~ tax due are to be sent to the ~~Idaho Potato~~ Commission office with the tax payment. ~~These~~ **The information required for the** reports are to be made on forms furnished by the Commission ~~and show such information as the Commission may require.~~ (3-31-22)( )

**101. (RESERVED)**

**102. CERTIFICATION MARKS FOR IDAHO® POTATO CONTAINERS.**

**01. Containers.** All potatoes grown in Idaho and packed or repacked in containers in or outside of the state of Idaho shall be in containers printed, labeled or stenciled in a plain and legible manner with one (1) of the Commission’s registered Certification Marks, and a “GROWN IN IDAHO®” Certification Mark. An exact reproduction of the Commission’s Certification Marks appears ~~in appendix A at idahopotato.com/licensing/marks.~~ Certification Marks may not be stamped on any Idaho® potato container without a temporary written variance. No container may use a “Check Off” box format for state of origin. All containers must use Idaho specific approved produce code identification numbers, where the same have been obtained and approved. No container of Idaho® potatoes or potato products may be manufactured or used without prior written approval of the Commission or its employee. No Seal, Trademark, Certification Mark, brand, or similar device used to promote potatoes not grown in Idaho can be placed on a container. (3-31-22)( )

**a. Variance.** Upon written application, the Idaho Potato Commission may grant a variance from these rules for special purpose shipments for charity, certified seed, experimentation and processing. If a variance is granted, the applicant shall comply with all terms and conditions of such variance. If applicable, the application shall be accompanied by a valid Certificate of Privilege issued by the Idaho and Eastern Oregon Potato Committee, and the applicant shall furnish copies of all of the reports required by the Idaho and Eastern Oregon Potato Committee to the Idaho Potato Commission. (3-31-22)( )

**02. Agreement to use Marks.** No person, firm or corporation packing or repacking ~~Idaho~~ potatoes or ~~Idaho~~ potato products outside of the state of Idaho shall use any of the Commission’s Certification Marks on any containers of potatoes or potato products packed or repacked outside the state of Idaho unless they have first executed an agreement for the use of the Certification Marks with the Idaho Potato Commission, ~~and unless they are actually packing or repacking in such containers of Idaho grown potatoes or potato products made from Idaho grown potatoes.~~ (3-31-22)( )

**03. Agreement.** No person, including without limitation manufacturers, container manufacturers, growers, shippers, processors and repackers, shall use or reproduce any of the Commission’s Certification Marks on any container without first executing an agreement for the use of the marks with the Idaho Potato Commission. ( )

**04. Recognition.** Whenever the “GROWN IN IDAHO®,” “IDAHO®,” or other Certification Marks are used, recognition must be given that the marks are registered under the appropriate Federal statute. This recognition must be: by printing a legible ~~capital “R” inside a circle “®”;~~ immediately after the word “IDAHO” or where designated by ~~a duly authorized employee of~~ the Commission. (3-31-22)( )

**05. No Certification Mark Use.** ~~No Certification Mark may be incorporated into any private label, brand, or seal but shall be portrayed without embellishment as shown in appendix A. The Commission’s Certification Marks must be portrayed without embellishment and cannot be incorporated into any private label, brand, or seal.~~

(3-31-22)

~~06.~~ **Not Incorporated.** The word “IDAHO®” cannot be incorporated into any private label, brand, or seal unless such label, brand, or seal was registered with the U.S. Patent Office prior to January 1, 1966.

(3-31-22)( )

~~07.~~ **Size Sack Type Containers.** A Certification Mark shall be used on the front of a one hundred (100) pound sack type container, that is not less than five (5) inches in diameter or width and not placed closer than two (2) inches from the bottom of said container. Any Certification Mark used on the rear of a one hundred (100) pound sack type container, it shall not be less than twelve (12) inches in diameter or width. The marks may also be used on both the front and back of one hundred (100) pound sack type containers, if placed as indicated and in the sizes indicated.

(3-31-22)

~~08.~~ **Limitation of Use.** On fifty (50) pound sack type containers, a Certification Mark shall be used as on the one hundred (100) pound containers, but in proportionate sizes.

(3-31-22)

~~09.~~ **Other Type Containers.** On all sack type containers of less than fifty (50) pounds, a Certification Mark shall appear plainly visible on the front of the containers in relative proportion to brands, labels, or other printed matter thereon, but not less than two and one quarter (2 1/4) inches in diameter or width.

(3-31-22)( )

~~1007.~~ **Box Type Containers.**

( )

a. On all box type containers in which U.S. No. 1 grade Idaho® Potatoes will be packed, a Certification Mark shall be located on the front and back panels of the container that is not less than a width measurement of three and one half (3 1/2) inches and a length measurement of five and one half (5 1/2) inches so placed as to be plainly visible. Unless an approved product traceability sticker is used, the top one and three quarters (1 3/4) inches of the carton shall contain no preprinting on all four (4) sides of the container. The container shall be packed with an approved box bottom bearing Idaho® Potato Certification Marks as specified by the commission.

( )

b. ~~On all box type containers in which number two (2) grade Idaho® Potatoes will be packed, packing is permitted only when~~ Packaging requirements for U.S. No. 2 grade Idaho® potatoes in box type containers are located at [idahopotato.com/licensing](http://idahopotato.com/licensing) and are consistent with the following ~~requirements are met:~~

(3-31-22)( )

i. The container must be manufactured in a kraft, or non-colored cardboard material and may either be of a single or double piece construction that uses a box bottom bearing Idaho® Potato Certification Marks as specified by the commission;

( )

ii. The rectangular “Grown in Idaho®” certification mark shall be placed on each side and end panel of the container, with a width measurement of three and one-half (3 1/2) inches and length measurement of five and one-half (5 1/2) inches ~~as shown in Appendix B;~~

(3-31-22)( )

iii. The certification mark “Idaho® Potatoes” shall be printed on all four (4) sides of the container in one (1) inch lettering ~~in the locations shown in Appendix B;~~

(3-31-22)( )

iv. The words “U.S. NO. 2” shall be printed on all four (4) sides of the container in one (1) inch lettering ~~in the locations shown in Appendix B~~ and on one (1) of the top flaps of the container;

(3-31-22)( )

v. The top one and three quarters (1 3/4) inches of the carton shall contain no preprinting on all four (4) sides of the container;

( )

vi. One (1) of the elongated top flaps shall contain the “Grown in Idaho®” certification mark with a width of three and one-half (3 1/2) inches and length of five and one-half (5 1/2) inches, together with the certification mark “Idaho® Potatoes” in one (1) inch height and the words “U.S. NO. 2” in one (1) inch height;

( )

vii. Product code identification numbers on containers bearing the certification marks shall use Idaho

specific codes where the same have been obtained and approved; and ( )

viii. All other requirements regarding container packaging set forth in these rules and the license agreements of the Idaho Potato Commission apply to the use of this type of container. ( )

**1408. Tote Bin Type.** On all tote bin type containers, Certification Marks must be used on the front of said container but may be used elsewhere and shall not be less than twelve (12) inches in diameter or width. ( )

**1409. Identity of Commodity.** All containers bearing the marks shall specify the identity of the commodity contained therein and the name and place of business of the manufacturer, packer, licensee, or distributor of the commodity. Containers which do not comply with the rules of the Idaho Potato Commission cannot be used by any grower, dealer, handler, shipper, processor, or out-of-state repacker for any potatoes or potato products subject to these rules. ( )

**130. Words Printed Packed in Idaho.** All potatoes grown in Idaho and packed or repacked in Idaho shall have the words "PACKED IN IDAHO" printed on the container. ~~(3-31-22)~~( )

**14a. Sack Type Containers -- Fifty Pounds or Over.** On all sack type containers for fifty (50) pounds or over the words "PACKED IN IDAHO" shall be located on the front lower half of the container but not closer than six (6) inches to the bottom thereof. ( )

**14b. Sack Type Containers -- Less Than Fifty Pounds.** On all sack type containers containing less than fifty (50) pounds of potatoes the words "PACKED IN IDAHO" may be placed anywhere on the container so as to be plainly visible. ( )

**14c. Location of Words.** On all box type containers the words "PACKED IN IDAHO" may be located on the ends, sides or top of the container but shall be so placed as to be plainly visible. ( )

**14d. Colors.** All marks when used and the words "PACKED IN IDAHO" shall be in color or colors in contrast with the color of the container. ( )

**181. Use.** Only in connection with potatoes and potato products grown within the state of Idaho may growers, handlers, shippers, processors, and packers use the name "IDAHO®" in any mark, label or stencil applied to containers for such produce and products. The growers, dealers, handlers, shippers, processors, and packers of potatoes within the state of Idaho are not precluded from processing, packing, and shipping potatoes grown outside the state of Idaho so long as such potatoes are not misrepresented or misbranded as Idaho® Potatoes. ( )

**192. Compulsory Printing.** Printing of the mark "GROWN IN IDAHO®" and the words "PACKED IN IDAHO" is compulsory on all potato containers printed or contracted for after December 1, 1964. ( )

**2013. Idahos.** The word "IDAHOS" cannot be used on any container for potatoes, potato products, or on any other printing or advertising material or correspondence used to identify or promote Idaho potatoes. ( )

**2414. Exemption.** Only shipments of certified seed potatoes to destinations outside of the state of Idaho are exempt from this rule. ( )

**2215. Other Rules.** Other rules on containers, grade, and size are covered under Title 22, Chapter 9, Idaho Code, and applicable marketing orders. ( )

**103. BRANDING, AND GRADE AND PACKAGING REQUIREMENTS OF STATE BRAND.**

**01. Branding or Marking of Individual IDAHO® Potatoes.** ( )

a. Idaho® potatoes are considered to be branded when they are individually marked or identified as such. The methods of branding shall include: marking of individual potatoes by ink, heat, light, labeling, stickering, or puncturing and such other methods as may from time to time be authorized by the Idaho Potato Commission. ( )

**b.** The certification mark “Idaho®” shall be one (1) inch in length and one-quarter (1/4) inch in height unless prior Idaho Potato Commission written approval is secured and granted for any variance. ( )

**c.** The purchase or the leasing or use of branding machines shall be entirely voluntary. ( )

**d.** There are no limitations on the size and type of containers in which branded potatoes may be packed as long as they meet the licensing requirements of Section 102. ( )

**e.** Grade for branding shall be U.S. No. 1 or better (as defined in the U.S. Standards effective March 27, 1991) and not less than two (2) inches in diameter or four (4) ounces in weight. ( )

**f.** Only Certification Marks owned or administered by the Idaho Potato Commission may be branded on potatoes grown in Idaho unless prior Idaho Potato Commission approval in writing is secured and granted for the use of additional words or designs. ( )

**g.** The operation of branding the word “Idaho®” upon potatoes may be carried on only by licensees of the Idaho Potato Commission, and only upon such terms and conditions that will ~~insure~~ ensure that only Idaho grown potatoes are branded as such. (3-31-22)( )

**h.** All varieties of potatoes grown in Idaho may be so branded. ( )

**i.** No person, firm, or corporation may brand the word “Idaho®” on potatoes or sell machinery for the purpose of branding potatoes with any of the Idaho certification marks unless granted the right to do so by written agreement with the Idaho Potato Commission. ( )

**j.** Branded potatoes must use Idaho specific, approved produce code identification numbers, where the same have been obtained and approved. ( )

**k.** On all branded potatoes using a standard size sticker, the Certification Mark “Idaho® Potatoes” shall be printed in eight (8) point type and the Certification Mark “Grown in Idaho®” shall be printed with a minimum height of eight point one hundred twenty-nine (8.129) mm and minimum width of five point thirty-seven (5.37) mm. ( )

**02. State Brand Grade and Packaging Requirements.** Idaho® potatoes shall meet all requirements of U.S. Extra No. 1 as defined in the U.S. Standards for Grades of Potatoes, March 27, 1991, with the following additions or exceptions: ( )

**a.** Mature. ( )

**b.** Fairly well shaped. Defined as excluding the lower limits of such classification. ( )

**c.** Appearance as related to russeting where at least seventy five percent (75%) of the surface of the individual potato is moderately netted which means the netting will be solid net-like in appearance. ( )

**d.** Size is two and one eighth (2-1/8) inches in diameter and four (4) ounces minimum, eleven (11) ounces maximum. Each lot shall meet the specifications of Size A as defined in 51.1545, Table I(2) of the Standards. ( )

**e.** Tolerances for grade defects are defined in 51.1546(a)(2), for U.S. No. 1. ( )

**f.** All other tolerances and definitions of the Standards apply. ( )

**03. Packaging.** ( )

**a.** Container Requirement: Maximum size not to exceed twenty (20) pounds. ( )

**b.** Miscellaneous Requirements: Use of the state brand packaging is entirely voluntary. Potatoes grown and packed in Idaho may be packed in state branded containers. All varieties of potatoes grown in Idaho may be packed in state branded containers. The Commission shall require a written agreement between the Idaho Potato Commission and Idaho packers for the use of the state brand. All state branded containers shall be Federal-State inspected. ( )

**c.** The grade used in state brand containers shall be as defined in Subsection 103.03 and “Idaho State Code 22-908” and “Federal-State Inspected” shall be printed in three-eighths (3/8) inch or larger letters, on front of each container. ( )

**d.** If individually branded Idaho® potatoes are packaged in state brand packaging they must meet grade requirements as defined in Subsection 103.03. ( )

#### **104. REPORTING, LABELING, AND REVOCATION.**

##### **01. Reporting of Fresh Shipments of Potatoes. (3-31-22)**

~~a.~~ Growers, dealers, handlers, and shippers of Idaho® potatoes are required to report shipments of all fresh Idaho grown potatoes giving information as to weight, packaging, and type of receiver. Reporting forms will be furnished for this information by the Idaho Potato Commission. All information received will be kept in strictest confidence as to individual shipments. (3-31-22)( )

~~b.~~ ~~The purpose of this information is to provide the Idaho Potato Commission with information concerning fresh potato sales in geographical marketing areas receiving Idaho® grown potatoes to enable it to design and evaluate advertising and marketing programs. (3-31-22)~~

##### **02. Labeling Containers of Fresh Idaho® Potatoes to Indicate the Variety Packed Therein. ( )**

**a.** All potatoes grown in Idaho that are packed or repacked in containers in Idaho, or packed or repacked in containers outside of Idaho under an out-of-state packer license agreement, shall be packed or repacked in containers that are printed, marked, labeled or stenciled in a plain and legible manner that identifies the variety packed therein. ( )

**b.** No container may contain more than one (1) variety of potato, except as provided by written variance for non-russet variety potatoes. ( )

**c.** Any mark, label, or stencil necessitated by this rule shall be conspicuously placed on the container and printed in a color contrasting with the background and be of a size determined as follows: ( )

**i.** For bags and other containers holding one hundred (100) pounds of potatoes or more, the letters of the label shall be at least one (1) inch high; ( )

**ii.** For bags and other containers holding fifty (50) pounds or more of potatoes, but less than one hundred (100) pounds, the letters of the label shall be at least three-fourths (3/4) of an inch high; ( )

**iii.** For bags or other containers holding less than fifty (50) pounds of potatoes, the letters on the label shall be five-eighths (5/8) of an inch high. ( )

**iv.** For containers holding less than five (5) potatoes, the letter on the label shall be in a size that is plainly visible and approved in writing by a duly authorized Commission employee. ( )

**d.** Any person seeking authorization to comply with this rule in a manner other than that specified herein shall submit a written request to the Commission for approval of an alternate method of compliance, which alternative method shall be in substantial compliance with these standards and which request describes in detail the proposed alternate method of compliance. The Executive Director of the Commission or a duly authorized employee shall have the authority and responsibility to review such requests and rule whether they should be allowed, said

determination to be based upon a finding that such alternate method has nor has not been shown to comply with the purpose and meet the standards of this rule; provided, any interested person may request in writing that the Commission grant a de novo review of said request at a subsequent regular meeting deemed convenient and appropriate by the Commission, which request the Commission may in its discretion, either grant or deny. ( )

e. No potatoes grown in Idaho and packed or repacked in containers in Idaho, or packed or repacked outside of Idaho under an out-of-state packer license agreement, shall carry or be printed, labeled, or identified with the GROWN IN IDAHO® or IDAHO® marks unless this rule is fully complied with as respects said potatoes. ( )

f. All persons growing potatoes in Idaho or packing or repacking in containers in Idaho, or packing or repacking outside of Idaho under an out-of-state license agreement, shall have the affirmative duty to avoid and refrain from ambiguous or misleading practices, acts or representations and to eliminate the same in marketing or handling Idaho® potatoes if such practice does or is likely to mislead any purchaser or consumer regarding the quality and variety of Idaho® potatoes purchased by such buyer or consumer. ( )

**03. Revocation of Right to Use Marks. ( )**

a. The Commission has the power to revoke the right of any person, firm, or corporation to use any of the Commission's Certification Marks or Trademarks if such person, firm, or corporation fails to pay any advertising tax assessed against it, license fees, or royalties, or fails to comply with any of these rules or applicable law. ( )

b. Revocation of the right to use the Certification Marks or Trademarks shall not occur without reasonable notice of at least twenty (20) days and an opportunity for a hearing pursuant to Section 67-5242, Idaho Code. However, where the Executive Director determines that expedited action is necessary, he may: ( )

i. Issue an order immediately suspending the right to use any of the Commission's Certification Marks or Trademarks pending a hearing, which hearing shall be held within twenty (20) days from the Executive Director's order; or ( )

ii. Issue an order conditioning the right to use any of the Commission's Certification Marks or Trademarks pending a hearing, which hearing shall be held within twenty (20) days from the Executive Director's order; or ( )

iii. Issue an order directing that the user of the Commission's Certification Marks or Trademarks show cause why the right to use the marks should not be suspended or conditioned further. ( )

**105. ADDITIONAL LABELING REQUIREMENTS, POTATOES.**

**01. Disclosure of Geographic Growing Area of Origin upon Potato Containers.** All persons doing business in the state of Idaho are required to disclose the growing area of origin upon all potato containers in accordance with this rule and Section 22-1207, Idaho Code. For purposes of these rules, doing business in the state of Idaho means the doing of any of the acts which would subject a person to the jurisdiction of the courts of this state or defined in Section 5-514, Idaho Code. ( )

**02. Compliance for Idaho Grown Potatoes.** For potatoes "Grown in Idaho®," this rule is complied with by meeting the requirements of Section 102. ( )

**03. Compliance for Private Brands or Labels That Reference Idaho Locations.** Private brands or labels of containers that reference an Idaho location, geographical feature, or otherwise attempt to imply directly or indirectly that a container of potatoes contains potatoes grown in Idaho when in fact such is not the case are prohibited. ( )

**04. Compliance for Private Brands or Labels That Do Not Reference Idaho Locations.** Private brands or labels that do not reference an Idaho location, geographical feature, or otherwise attempt to imply directly or indirectly that a container of potatoes contains potatoes grown in Idaho when in fact such is not the case, but only have an Idaho address on the container, are permitted when approved by the commission or its designee. This rule is

- complied with by private brands or labels that: ( )
- a. Meet the requirements of Subsection 104.02.c.; ( )
  - b. State the geographical state of origin of the potatoes followed by the word “potatoes”; and ( )
  - c. The lettering size of the Idaho address on the container does not exceed one-half (1/2) inch for containers fifty (50) pounds or greater and one-quarter (1/4) inch for containers less than fifty (50) pounds. For example, for potatoes grown in the state of Washington, the phrase “Washington potatoes” would comply with these rules. The use of the words “Grown in” preceding the state of origin is prohibited. ( )

**106. ADDITIONAL REQUIREMENTS FOR USE OF TRADEMARKS.**

- 01. Marks.** No person is permitted to use any trademark owned or administered by the Commission unless authorized to do so pursuant to a license agreement entered into with the Commission. ( )
- 02. Agreement.** Trademarks owned or administered by the Commission may be licensed for use as permitted under federal and state law and as authorized by the Commission. ( )
- 03. Royalty Fees.** In addition to license fees, the Commission may set royalty fees for the use of trademarks. ( )
- 04. Reproductions.** Exact reproductions of the trademarks owned or administered by the Commission are set forth in Appendix C of these rules. (3-31-22)

**107. -- ~~199~~200. (RESERVED)**

**SUBCHAPTER A – RULES OF PROCEDURE**  
**(Sections 201 through 204)**

**200. ~~INFORMAL FILES MAY BE INVESTIGATIVE RECORDS.~~**  
~~Files created by the Commission and its staff in response to informal inquiries or complaints are investigatory records within the meaning of Sections 74-101(6) and 74-107(16), Idaho Code, are generally exempt from disclosure according to the standards of Sections 74-101 through 74-108, Idaho Code, but are available under Section 74-113, Idaho Code, to the customer, applicant, licensee, etc., that are the subjects of the investigation. (3-31-22)~~

**201. SUBPOENAS.**

- 01. ~~Issuance of Subpoenas.~~** ~~Upon a motion in writing, or upon a Commissioner’s own initiative without motion, any Commissioner or the Commission’s Secretary may issue subpoenas: (3-31-22)~~
  - a.** ~~Requiring the attendance of a witness from any place in Idaho; (3-31-22)~~
  - b.** ~~The production of documents from any place in Idaho; or (3-31-22)~~
  - c.** ~~The production of any books, accounts, papers, or records of a licensee kept within or without Idaho to any designated place of deposition, hearing, or investigation for the purpose of taking testimony or examining documents before the Commission, a Commissioner or hearing examiner. (3-31-22)~~
- 021. Witness or Travel Fees.** A party’s motion to issue a subpoena must be accompanied by a statement that the party will tender to the subpoenaed person all fees necessitated by statute and rules if the subpoena is issued. ( )
- 032. Motions to Quash.** The Commission upon motion to quash made promptly, and in any event, before the time to comply with the subpoena, may: ( )
  - a.** Quash the subpoena; or ( )

b. Condition denial of the motion to quash upon reasonable terms. ( )

**202. RULINGS AT HEARINGS.**

The presiding officer rules on motions presented at hearing. The presiding officer's rulings may be reviewed by the full Commission in determining the matter on its merits. In extraordinary circumstances, the presiding officer may refer or defer these matters to the full Commission for determination. ( )

**203. OBJECTIONS -- OFFERS OF PROOF.**

Grounds for objection to the admission or exclusion of evidence must be stated briefly at the time the evidence is offered. Formal exceptions to rulings admitting or excluding evidence are unnecessary and need not be taken. An offer of proof for the record consists of a statement of the substance of the excluded evidence. When a party objects to the admission of evidence, the presiding officer will rule on the objection or the presiding officer may receive the evidence subject to the later ruling by the full Commission or refer to the matter to the full Commission. ( )

**204. -- 999. (RESERVED)**



APPENDIX A



**APPENDIX B**

	<p>Grown in Idaho® seal is a minimum of 3½ inches wide and must be placed on one major flap into two locations, with the text "Idaho® Potatoes" and "U.S. No. 2" located between both seals. This area is also used for Placement of Sprout Nip Clause (in box).</p>	<p>Company or farm logo may be placed on this major flap. Size is not limited. Other items may also be placed on this flap.</p>				<p>BAR CODE PLACEMENT ONLY</p>	<p>BAR CODE PLACEMENT ONLY</p>	<p>BAR CODE PLACEMENT ONLY</p>
<p>Company or farm logo may be placed under "No. 2". Maximum logo size is 3½ inches wide.</p>			<p>Grown in Idaho® seal must be 3½ inches wide with placement at left on major panels and at right on minor panels. Reading left to right, seal must be 1½ inch from bottom score and at least ½ inch from side score.</p>			<p>"Packed In" or address line to be placed at least ½ inch from bottom score and at least ½ inch from left score (reading left to right) on major panel. It is not limited to one line but can not exceed beyond the word "Potatoes."</p>		

APPENDIX C



**IDAPA 35 – IDAHO STATE TAX COMMISSION**  
**35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES**  
**DOCKET NO. 35-0103-2301 (ZBR CHAPTER REWRITE)**  
**NOTICE OF RULEMAKING – PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 63-105, Idaho Code.

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

<b>*PUBLIC MEETING*</b> <b>Thursday, September 21, 2023, from 1:00 p.m. to 3:00 p.m. (MT)</b>
<b>In Person:</b> <b>State Tax Commission</b> <b>11321 W Chinden Blvd.</b> <b>Boise, ID 83714</b> <b>(Meeting to be held in the Turquoise Conference Room)</b>

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

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

We deleted sections that restated statute, updated text based on statute changes, moved examples to our website, and moved text, that could be communicated on our website instead, to web guides.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 5, 2023 Idaho Administrative Bulletin, [Vol. 23-4, page 64](#). The Tax Commission has held two public meetings and several sub-committee meetings. We will hold a public hearing. All public comments received will be considered in the formulation and adoption of the pending rule.

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

The following documents incorporated by reference in these rules are being updated to their most recent publication date:

1. Standard on Mass Appraisal of Real Property, IAAO, 2017; and
2. Standard on Verification and Adjustment of Sales, IAAO, 2020.

These documents are incorporated by reference to save space in the chapter and ensure that they continue to have the force and effect of law.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Alan Dornfest using the contact information below.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 12, 2023.

DATED this 6th day of September, 2023.

Alan Dornfest, Property Tax Policy Bureau Chief  
Idaho State Tax Commission  
11321 W. Chinden Blvd., Boise ID 83714  
PO Box 36, Boise ID 83722-0036  
[Alan.Dornfest@tax.idaho.gov](mailto:Alan.Dornfest@tax.idaho.gov)  
(208) 334-7742

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0103-2301**  
**(ZBR Chapter Rewrite)**

**35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES**

**000. LEGAL AUTHORITY ~~(RULE 000)~~.**

In accordance with Section 63-105 and 63-105A, Idaho Code, the Tax Commission has promulgated rules implementing the provisions of the Idaho Statutes relating to the property tax laws and related statutes, Chapters 1 through 17 and Chapters 28, 30, 35, 36, and 45, Title 63, Idaho Code. Rules relating to the market value of recreational vehicles are authorized by Section 49-446, Idaho Code. ~~Rules relating to taxation of newly constructed improvements are authorized by Section 63-105A, Idaho Code.~~ (3-31-22)( )

**001. ~~TITLE AND SCOPE (RULE 001)~~.**

~~These rules are titled IDAPA 35.01.03, “Property Tax Administrative Rules.”~~ (3-31-22)

**002. ~~ADMINISTRATIVE APPEALS (RULE 002)~~, **(RESERVED)****

~~This chapter does allow administrative relief of certain provisions outlined herein. These rules relate to proceedings pursuant to Sections 63-407 and 63-707, Idaho Code.~~ (3-31-22)

**003. INCORPORATION BY REFERENCE ~~(RULE 003)~~.**

~~Unless provided otherwise, any reference in these rules to any document identified in Rule 003 of these rules will constitute the full incorporation into these rules of that document for the purposes of the reference, including any notes and appendices therein. The term “documents” includes codes, standards, or rules adopted by an agency of the state or of the United States or by any nationally recognized organization or association.~~ (3-31-22)

~~**01. Availability of Reference Material.** Copies of the documents incorporated by reference into these rules can be electronically accessed as noted in Subsection 003.02 of this rule.~~ (3-31-22)

**021. Documents Incorporated by Reference.** The following documents are incorporated by reference into these rules: ( )

- a. “Standard on Ratio Studies” published in 2013, “Standard on Digital Cadastral Maps and Parcel

Identifiers” published in 2015, “Standard on Mass Appraisal of Real Property” published in 2012<sup>7</sup>, “Standard on Verification and Adjustment of Sales” published in 2012<sup>0</sup>, all published by the International Association of Assessing Officers. These documents can be electronically accessed at [http://www.iaao.org/wcm/Resources/Publications\\_access/Technical\\_Standards/wcm/Resources\\_Content/Pubs/Technical\\_Standards.aspx?hkey=9c330567-135b-4adc-a772-00008232ab90](http://www.iaao.org/wcm/Resources/Publications_access/Technical_Standards/wcm/Resources_Content/Pubs/Technical_Standards.aspx?hkey=9c330567-135b-4adc-a772-00008232ab90) which was last accessed and verified on ~~July 18, 2019~~ April 10, 2023.  
(3-31-22)( )

**b.** “Forest Habitat Types of Northern Idaho: A Second Approximation” published by the Government Printing Office for the U. S. Forest Service in 1991, General Technical Report INT-236, written by Cooper, Stephen V., Neiman, Kenneth E., Rev, David W., and Roberts, Kenneth E. ( )

**c.** “Forest Habitat Types of Central Idaho” published by the Government Printing Office for the Intermountain Forest and Range Experimentation Station of the U. S. Forest Service in 1981, General Technical Report INT-114, written by Kittams, Jay A., Pfister, Robert D., Ryker, Russell A., and Steele, Robert. ( )

**d.** “Yield of Even-Aged Stands of Ponderosa Pine” published by the Government Printing Office for the U. S. Department of Agriculture in 1938, Technical Bulletin No. 630. ( )

**e.** “Second-Growth Yield, Stand, and Volume Table for the Western White Pine Type” published by the Government Printing Office for the U. S. Department of Agriculture in 1932, Technical Bulletin No. 323. ( )

**f.** “Manual of Surveying Instructions” published by the Federal Bureau of Land Management and the Public Land Survey System Foundation in 2009. ( )

**004. -- 019. (RESERVED)**

**020. VALUE OF RECREATIONAL VEHICLES FOR ANNUAL REGISTRATION AND TAXATION OF UNREGISTERED RECREATIONAL VEHICLES (RULE 020).**  
Section 49-446, Idaho Code

**01. Value of Recreational Vehicle For Registration Fees.** ~~For the types of recreational vehicles shown in the “Depreciation Schedule for RVs,” beginning with registration fees for calendar year 2004, t~~The County assessors will administer and collect the recreational vehicle (RV) registration fee based on the market value calculated from the following depreciation schedule. For all other types of recreational vehicles, the assessor will use any available standard industry indices of retail value to determine the market value. If no such indices are available, the assessor will determine market value from sale price or by using appraisal procedures as defined in Rule 217 of these rules.

<b>DEPRECIATION SCHEDULE FOR RVs</b>				
	<b>Travel/ Camp Trailers</b>	<b>Campers</b>	<b>Van Conversions</b>	<b>Motor Homes</b>
<b>Age</b>	<b>Percent Good</b>	<b>Percent Good</b>	<b>Percent Good</b>	<b>Percent Good</b>
0	100	100	100	100
1	86	83	85	85
2	76	76	74	77
3	66	64	62	68
4	62	60	52	62
5	59	55	47	59
6	56	54	40	55

DEPRECIATION SCHEDULE FOR RVs				
	Travel/ Camp Trailers	Campers	Van Conversions	Motor Homes
Age	Percent Good	Percent Good	Percent Good	Percent Good
7	55	52	35	54
8	50	49	32	51
9	49	44	30	48
10	43	40	27	44
11	41	36	23	40
12	38	33	19	36
13	37	30	14	32
14	36	27	13	31
15	31	23	12	28

To use this depreciation schedule, multiply the sales price or the market value of the RV adjusted by the percentage, if applicable from Subsection 020.02 or 020.03 below, by the appropriate "Percent Good" based on the "Age" and type of RV. Decide the "Age" based on the year of purchase as follows: purchased in the current year equals "Age" zero (0), purchased in the previous year equals "Age" one (1), etc. For example, in year 2004, the "Age" for an RV purchased in 2004 is zero (0), the "Age" for an RV purchased in 2003 is one (1), the "Age" for an RV purchased in 2002 is two (2), the "Age" for an RV purchased in 2001 is three (3), etc. For any RV still in use and purchased fifteen (15) or more years ago, calculate the minimum market value using the lowest depreciation rate for the correct RV type. See Depreciation Schedule for RVs at <https://tax.idaho.gov>. (3-31-22)(\_\_\_\_)

**02. Value of Motor Home or Van Conversion For Registration Fees.** The value of any motor home or van conversion used to calculate the registration fee will exclude any chassis value. ~~Beginning with the registration fees for calendar year 2004, the county assessor will use the following schedule of valuation factors to calculate the value of the motor home or van conversion excluding the chassis value.~~

Motor Home/Van Type	Valuation Factor
Mini Motor Home (MMH)	50%
Motor Home (MH)	60%
Front Engine Diesel	45%
Rear Engine Diesel	58%
Van Conversions	25%

Multiply the motor home or van conversion's total value by the appropriate factor to calculate the value excluding the chassis value. See Motor Home/Van Type Valuation Factor at <https://tax.idaho.gov>. (3-31-22)(\_\_\_\_)

**03. Value of Vehicles Designed For Combined RV and Non-RV Uses For Registration Fees.** For vehicles designed to have part of the vehicle for RV use and other parts of the vehicle for non-RV uses like transporting horses or other cargo, the value of the RV to be used to calculate the registration fee on or after January 1, 2015, is fifty percent (50%) of the sales price. (3-31-22)(\_\_\_\_)

**04. Assessment Notice Mailed or Assessment Canceled.** ~~If after August 31, the required annual~~

~~registration fee has not been paid, a taxpayer's valuation assessment notice will be mailed to the owner of the recreational vehicle. If the required annual registration fee is not paid by August 31, the assessor will mail an assessment notice to the owner of the recreational vehicle.~~ If the registration fee is paid before the fourth Monday of November, the assessor will cancel the assessment. (3-31-22)( )

021. -- 113. (RESERVED)

114. POWERS AND DUTIES - PROPERTY TAX - VALUE INFORMATION ~~(RULE 114)~~.

Sections 63-105A and 63-509, Idaho Code

~~To provide needed value information under Subsection 63-105A(2), Idaho Code, e~~Each county assessor will, ~~to the extent practicable,~~ report to the Tax Commission in the same manner and at the same time as the abstract under Section 63-509, Idaho Code, ~~the total market value and exempted value of all property (land and improvements) used for residential purposes and granted the homeowner's exemption under Section 63-602G, Idaho Code, for the current year's assessment roll. Additionally, each county assessor will, to the extent practicable, report to the Tax Commission the number of properties, and the aggregate total market value, and the exempted value of the properties granted the homeowner's exemption in each group starting with the group of properties valued at less than or equal to homestead exemption under Section 63-602G, Idaho Code, for the current year's property roll. The report will group properties in~~ twenty-five thousand dollars (\$25,000) ~~and including each subsequent group with value increases of twenty-five thousand dollars (\$25,000) increments and ending with the group of properties exceeding the value of more than four hundred fifty thousand dollars (\$450,000), two million dollars (\$2,000,000).~~ (3-31-22)( )

115. POWERS AND DUTIES - PROPERTY TAX - VALUE INFORMATION ~~(RULE 115)~~.

Sections 63-105A and 63-509, Idaho Code

01. Requirement to Submit Abstracts. ~~The county auditor must submit to the Tax Commission~~ ~~a~~Abstracts ~~are submitted~~ for the county, the cities, or the portion of each city located in the county, the Boise School District, and any taxing district or unit of government with a restriction providing that such district does not levy property taxes on all otherwise taxable property as described in Rule 808 of these rules. (3-31-22)( )

02. Values by Secondary Category. For each of the abstracts required in Subsection 115.01 of this rule, ~~to provide needed value information under Subsection 63-105A(2), Idaho Code,~~ each assessor will report to the county auditor the market value and exempted value of all property by secondary categories, described in Rules 510, 511, and 512 of these rules; ~~in the same manner as the abstracts required for each county under Section 63-509, Idaho Code, and Rule 509 of these rules.~~ (3-31-22)( )

~~03. Additional Abstracts to Accompany County Abstracts. Each county auditor will include city and any required additional abstracts described in Subsection 115.01 of this rule, when submitting to the Tax Commission the abstracts required under Section 63-509, Idaho Code, and Rule 509 of these rules.~~ (3-31-22)

~~043. Cross Reference. For the descriptions of secondary categories and clarification of responsibilities relating to listing and reporting values by secondary categories, s~~See Rules 509, 510, 511, and 512, ~~and 809~~ of these rules. ~~For a description of levy criteria requiring submittal of additional abstracts, see Rule 808 of these rules.~~ (3-31-22)( )

116. -- 119. (RESERVED)

120. INVESTIGATION OF WRITTEN COMPLAINTS ~~(RULE 120)~~.

Section 63-105A, Idaho Code

01. Definitions. ( )

a. ~~Complaint.~~Complaint means a signed, written statement submitted to the Tax Commission requesting that this agency investigate any actions by county officials relating to property tax assessment or administration, provided such actions are not related to personnel matter or matters relating to the expenditure of funds. (3-31-22)( )

b. ~~Complainant.~~Complainant means any individual making a complaint. (3-31-22)( )



c. ~~Investigation.~~ Investigation means observation and close examination of a county official's application of property tax assessment or administration law and Tax Commission rules. The investigation may require field inspections of property, analysis of public records or the interviewing of witnesses. ~~The investigations will be~~ are limited to specific issues identified in the complaint. (3-31-22)( )

d. ~~County official. The term~~ e County official means the elected or appointed official whose actions are the subject of the complaint. (3-31-22)( )

**02. Investigation Procedure.** The following procedures apply to an investigation of a complaint. ( )

a. ~~Examination of complaint. The complaint will be examined by the Tax Commission to decide if a formal investigation will be conducted.~~ The Tax Commission will examine the complaint and decide if a formal investigation is necessary. (3-31-22)( )

b. ~~Notification.~~ Within thirty (30) days of receipt of a complaint, the Tax Commission will notify the complainant of the decision regarding initiation of an investigation. If an investigation is initiated, the affected county official(s) will also be notified within this time frame. (3-31-22)( )

~~e.~~ ~~Delivery of investigation order. Within thirty (30) days of a decision to conduct an investigation, the Tax Commission will deliver to the affected county official(s) a copy of the investigation order naming the investigators and outlining what is to be investigated.~~ (3-31-22)

~~d.c.~~ Preliminary report. A preliminary report will be prepared by the investigator and legal counsel. The report will include findings and recommendations, and may include information from the official(s). The investigator and legal counsel will prepare a preliminary report containing findings, recommendations, and may include information from the official(s). (3-31-22)( )

~~ed.~~ Presentation of preliminary report. The preliminary report complainant and the official(s) will be presented to the complainant and the official(s) receive a copy of the preliminary report. The Tax Commission investigators will be present when the report is discussed with the affected county official(s) and the complainant. The Tax Commission investigators will attend any meetings held to discuss the preliminary report with the affected county official(s) and the complainant. (3-31-22)( )

~~fe.~~ Comment period. The complainant and the county official(s) will be given a specified time to review and comment on the preliminary report, particularly to correct any errors of fact. The complainant and the county official(s) are afforded a specified period for review, comment, and to correct any errors of fact. (3-31-22)( )

~~gf.~~ Final report. At the end of the review by the complainant and the public official a final report will be prepared by the investigator and legal counsel and submitted to any affected county official(s) with any changes from the preliminary report highlighted. The investigator and legal counsel will prepare a final report following the review by the complainant and public official(s), highlighting any changes from the preliminary report. (3-31-22)( )

**03. County Officials' Response to Final Report.** After the final report is completed, the county official(s) will outline how they will implement the investigator's recommendations ~~will be implemented~~ and provide a written explanation of why any recommendation has been rejected. (3-31-22)( )

**04. Conclusion of Investigation.** The investigator's final report and the county officials' written response to the report will conclude the investigation. ~~The conclusion of the investigation does not preclude the Tax Commission from enforcing additional powers and duties as prescribed by law or the complainant and county official(s) from exercising his or her right to appeal property valuations before a County Board of Equalization, the State Board of Tax Appeals or in District Court.~~ (3-31-22)( )

**05. Special Rules for Investigation of Complaints About Property Tax Budgets or Levies.** When

complaints are made about property tax budgets or levies of taxing districts, the results of any investigation will also be reported to the appropriate taxing district, the county prosecuting attorney, and affected county officials. The Tax Commission's investigatory authority is limited to determining whether a levy rate or property tax budget increase exceeds any statutory maximum, or whether a levy is unauthorized. Any such investigation must be conducted in accordance with the time constraints found in Section 63-809, Idaho Code. (3-31-22)( )

121. -- 124. (RESERVED)

**125. PROGRAM OF EDUCATION (RULE 125).**  
Section 63-105A(17), Idaho Code

**01. Administration.** ~~The program of education is the responsibility of the Tax Commission (Commission).~~ The program of education ~~will be~~ is administered by the Tax Commission's education director ~~(education director).~~ (3-31-22)( )

**02. Appraisal School and Other Courses.** An appraisal school will be held at least once each year. The school will offer courses for training the Tax Commission's employees, county commissioners, and assessment personnel. ~~The Idaho Association of County Assessors Education Committee and the~~ education director will ~~approve~~ develop the curriculum for the annual appraisal school. Other courses may be developed and offered as approved by the education director. (3-31-22)( )

**03. Record Keeping and Reporting of Attendance, Grades, and Credit Hours.** The education director will maintain student attendance records, records of education hours earned, status of certification, and grades. ( )

**a.** The education director and course instructors will monitor attendance and hours of education to be awarded to each student attending the Tax Commission administered classes. A certificate of completion showing the number of education hours to be awarded will be issued by the education director for the Tax Commission administered classes. The examination committee must approve any classes not administered by the Tax Commission prior to the awarding of education hours. In order to receive credit for classes not administered by the Tax Commission, the student will provide a certificate of completion showing the number of education hours completed, a course description, and the dates attended. (3-31-22)( )

**b.** The education director will maintain records to show the number of education hours completed during the current year and the previous two (2) years. By June and November of each year, the education director will send a certification status report to each county assessor or applicable supervisor. This report will list each certified property tax appraiser who is known to be employed by or under contract with said assessor and show the number of hours of education completed during the previous year and current calendar year. ( )

**c.** If a test is given for Tax Commission developed courses, the education director will notify the appropriate county assessor or applicable supervisor of the grade achieved on the test. (3-31-22)( )

**04. Examination Committee -- Establishment and Procedures.** The examination committee ~~will be~~ is composed of three (3) assessors, one (1) member of the Idaho Association of Assessment Personnel, and the education director. The education director will appoint the members of the committee. The committee will operate by majority rule. (3-31-22)( )

~~**a.** Terms. The term of the education director will be continuous. The other members will serve four (4) year terms. The education director will maintain records of dates of appointments. (3-31-22)~~

~~**b.** If any member fails to serve the full appointed term, the education director will appoint another member for the remainder of the term. The appointee will be from the same group as the member not completing the term. (3-31-22)~~

**ea.** The education director will chair the committee. ( )

**eb.** An applicant may appeal any rulings, matters involving examination structure, grading, or

grievances with the committee to a review board. No board member may be an assessor of the applicant's county or a member of the examination committee. The review board will consist of the following four (4) persons: ( )

- i. The president of the Idaho Association of County Assessors; ( )
- ii. A person appointed by the president of the Idaho Association of County Assessors; ( )
- iii. A person appointed by the examination committee; and ( )
- iv. A person appointed by the education director. ( )

**ec.** The committee will decide which courses meet the requirements for obtaining and maintaining certification and the hours of appraisal education awarded for each course. ( )

**05. Cross Reference.** See Rules ~~126 of these rules for the description of the certified property tax appraiser program~~ and Rule 128 of these rules for ~~the cadastral~~ certification programs. (3-31-22)( )

**126. PROPERTY TAX APPRAISER CERTIFICATION PROGRAM (RULE 126).**  
Section 63-105A, Idaho Code

**01. Application for Certification.** ~~The Commission (Commission) will prescribe and make available the application for state certification form to each county assessor.~~ (3-31-22)( )

**a.** After the applicant has completed the requirements of Subsection 126.02 of this rule, the applicant's ~~supervisor~~ will submit the completed application form to the education director. The application will list the following: (3-31-22)( )

- i. The name and address of the applicant; ( )
- ii. The applicant's employer; and ( )
- iii. The courses completed. ( )

**b.** The application must be signed and dated by the applicant and by the ~~applicant's supervisor~~ county assessor certifying the completion of the minimum experience requirement. (3-31-22)( )

~~**e.** The education director will make available information regarding the certification process and the application form to students attending the courses referenced in Subsection 126.02 of this rule.~~ (3-31-22)

**02. Certification Requirements.** An applicant for certification must pass at least two (2) appraisal courses: ~~Tax Commission Course No. 4~~ the Tax Commission's Principles of Property Valuation or the International Association of Assessing Officers' (IAAO) Course 101; and IAAO Course No. 102 or IAAO Course 201 or IAAO Course 300, or equivalent courses approved by the examination committee, and must have a minimum of twelve (12) months experience appraising for tax assessment purposes in Idaho or equivalent property tax appraisal experience approved by the examination committee. These requirements must be completed in the five (5) year period immediately preceding application except when the applicant proves equivalent education and experience. (3-31-22)( )

**a.** Upon ~~request to~~ approval of the ~~education director~~ examination committee, an applicant may take one (1) required course and challenge the second required course by passing a test. The education director will set the time and place for the test. (3-31-22)( )

~~**b.** Equivalent courses may be approved by the education director and the examination committee.~~ (3-31-22)

**eb.** With the exceptions of the county assessor, the members of the county board of equalization, and the Tax Commissioners, all persons making decisions regarding final values for assessment purposes ~~will be~~ are

certified property tax appraisers. (3-31-22)( )

**03. Maintaining Property Tax Appraisal Certification.** ( )

a. To maintain certification each appraiser must complete thirty-two (32) hours of continuing education within two (2) years of the certification date. Thereafter, by January 1 of each year, each appraiser will have completed thirty-two (32) hours of continuing education during the previous two (2) years. ( )

b. When any certified property tax appraiser fails to meet the continuing education requirements, the examination committee will place this person on six (6) month probation. When any certified property tax appraiser fails to meet the continuing education requirements within this probationary period, the person will forfeit certification or may, on a one (1) time only basis, submit a written petition to the examination committee for a six (6) month extension of probation. This person must submit this petition at least thirty (30) days prior to the expiration date of the first probationary period. ( )

c. For recertification, an applicant must apply to the examination committee within five (5) years of the date certification was canceled. An applicant for recertification must satisfactorily complete a written examination approved by the examination committee. The examination committee will decide the time and place of the examination. If more than five (5) years have lapsed since certification was canceled, the examination committee will not grant recertification. After the five (5) year period, an applicant must apply for certification under the same conditions as required for initial certification and a new certification number will be issued. (3-31-22)( )

**04. Cross Reference.** See Section 63-201. (1)(a), Idaho Code, ~~for the requirement that only assessors or certified property tax appraisers place value on any assessment roll. See and~~ Rule 125 of these rules ~~for the description of the examination committee.~~ (3-31-22)( )

**127. (RESERVED)**

**128. CADASTRAL CERTIFICATION PROGRAM ~~(RULE 128).~~**  
Section 63-105A, Idaho Code

**01. Application for Certification.** ~~The Tax Commission (Commission) will prescribe and make available the application for state certification form to each county assessor.~~ (3-31-22)( )

a. ~~After any the~~ applicant has completed the requirements provided in Subsection 128.02 of this rule, the applicant's ~~supervisor~~ will submit the completed application form to the education director. The application will list the following: (3-31-22)( )

- i. The name and address of the applicant; ( )
- ii. The applicant's employer; and ( )
- iii. The courses completed. ( )

b. The application must be signed and dated by the applicant and by the ~~applicant's supervisor~~ count assessor certifying the completion of the minimum experience requirement. (3-31-22)( )

~~e. The education director will make available information regarding the certification process and the application form to students attending the courses mentioned in Subsection 128.02.~~ ( )

**02. Certification Requirements.** An applicant for certification must have passed the Tax Commission's Basic Mapping Course and the International Association of Assessing Officers' (IAAO) Course 600 or IAAO Course 601 ~~or both IAAO Courses 650 and 651~~, or equivalent courses, and must have a minimum of twelve (12) months experience working as a cadastral specialist in Idaho or equivalent cadastral experience approved by the examination committee. These requirements must be completed in the five (5) year period immediately preceding application except when the applicant proves equivalent education and experience. (3-31-22)( )

a. Upon ~~request to approval of the education director examination committee~~, an applicant may take one (1) required course and challenge the second required course by passing a test. The education director will set the time and place for the test. (3-31-22)( )

~~b. Equivalent courses may be approved by the education director and by the examination committee. (3-31-22)~~

**03. Maintaining Cadastral Specialist Certification. ( )**

a. To maintain certification, each cadastral specialist must complete thirty-two (32) hours of continuing education within two (2) years of the certification date. Thereafter, by January 1 of each year, each cadastral specialist will have completed thirty-two (32) hours of continuing education during the previous two (2) years. ( )

b. When any certified cadastral specialist fails to meet the continuing education requirements, the education committee will place this person on six (6) month probation. When any certified cadastral specialist fails to meet the continuing education requirements within this probationary period, the person will forfeit certification or may, on a one (1) time only basis, submit a written petition to the examination committee for a six (6) month extension of probation. This person must submit this petition at least thirty (30) days prior to the expiration date of the first probationary period. ( )

c. For recertification, an applicant must apply to the examination committee within five (5) years of the date certification was canceled. An applicant, for recertification, must satisfactorily complete a written examination approved by the examination committee. The examination committee will decide the time and place of the examination. If more than five (5) years have lapsed since certification was canceled, the examination committee will not grant recertification. After the five (5) year period, an applicant must apply for certification under the same conditions as required for initial certification and a new certification number will be issued. (3-31-22)( )

**04. Cross Reference.** See Section 63-201 (1)(a), Idaho Code, and Rule 125 of these rules ~~for the description of the examination committee.~~ (3-31-22)( )

**129. (RESERVED)**

**130. DESCRIPTION OF PRIMARY CATEGORIES USED TO TEST FOR EQUALIZATION ~~(RULE 130).~~**

Sections 63-109 and 63-315, Idaho Code

~~The State Tax Commission establishes the p~~Primary categories listed herein are for the purpose of testing values in each county and ~~each the Boise s~~School ~~d~~District for equalization by the Tax Commission under Section 63-109, Idaho Code. (3-31-22)( )

**01. Definitions.** The following definitions apply for the purposes of testing for equalization under Section 63-109, Idaho Code, ~~notification under Sections 63-301 and 63-308, Idaho Code,~~ and reporting under Section 63-509, Idaho Code. (3-31-22)( )

a. ~~Primary Categories. Primary category means the six (6) categories established and described in Subsections 130.02 through 130.07 of this rule, except for the use of secondary categories described in Subsection 130.07 of this rule and Paragraphs 131.02.b. and 131.05.b. of Rule 131, and used by the Tax Commission to test for equalization under Section 63-109, Idaho Code.~~ are used to study the following combinations of secondary categories: (3-31-22)( )

i. Vacant Residential Land: secondary categories 12, 15, 18 and 20; ( )

ii. Improved Residential Property: secondary categories 10, 12, 15, 18, 20, 26, 31, 34, 37, 40, 41, 46, 47, 48, and 50; ( )

iii. Vacant Commercial or Industrial Land: secondary categories 11, 13, 14, 16, 17, 21, and 22; ( )

~~iv. Improved Commercial or Industrial Property: secondary categories 11, 13, 14, 16, 17, 21, 22, 27, 33, 35, 36, 38, 39, 42, 43, and 51; ( )~~

~~v. Manufactured Housing: secondary categories 47 and 65; and ( )~~

~~vi. Agricultural Land: secondary categories 1 – 5. ( )~~

~~b. Secondary Category. Secondary category means the categories established and described in Rules 510, 511, and 512 of these rules and used by county assessors to list property values on the valuation assessment notice under Sections 63-301 and 63-308, Idaho Code, and report values to the Tax Commission under Section 63-509, Idaho Code, and Rule 509 of these rules. (3-31-22)( )~~

~~02. Vacant Residential Land Category. Vacant residential land is all vacant land used for residential purposes. The assessor listed this land in secondary categories 12, 15, 18, or 20, as described in Rule 510 of these rules, for the purposes of listing property values on the valuation assessment notice under Sections 63-301 and 63-308, Idaho Code, and reporting values to the Tax Commission under Section 63-509, Idaho Code, and Rule 509 of these rules. (3-31-22)~~

~~03. Improved Residential Property Category. Improved residential property is all improvements used for residential purposes and the land upon which these improvements are located. The assessor listed this property in secondary categories 10 and 31, 46, or 48, 12 and 34, 46, or 48, 15 and 37, 46, or 48, 18 and 40, 20 and 41, 46, or 48, 26, 46, 48, or 50 together with secondary category 47 as appropriate for inclusion when valuing this property, as described in Rules 510 and 511 of these rules, for the purposes of listing property on the valuation assessment notice under Sections 63-301 and 63-308, Idaho Code, and reporting values to the Tax Commission under Section 63-509, Idaho Code, and Rule 509 of these rules. (3-31-22)~~

~~04. Vacant Commercial or Industrial Land Category. Vacant commercial or industrial land is all vacant land used for commercial or industrial purposes. The assessor listed this property in secondary categories 11, 13, 14, 16, 17, 21, or 22, as described in Rule 510 of these rules, for the purposes of listing property values on the valuation assessment notice under Sections 63-301 and 63-308, Idaho Code, and reporting values to the Tax Commission under Section 63-509, Idaho Code, and Rule 509 of these rules. (3-31-22)~~

~~05. Improved Commercial or Industrial Property Category. Improved commercial or industrial property is all improvements used for commercial or industrial purposes and the land upon which these improvements are located. The assessor listed this property in secondary categories 11 and 33, 13 and 35, 14 and 36, 16 and 38, 17 and 39, 21 and 42, 22 and 43, 27, or 51, as described in Rules 510 and 511 of these rules, for the purposes of listing property values on the valuation assessment notice under Sections 63-301 and 63-308, Idaho Code, and reporting values to the Tax Commission under Section 63-509, Idaho Code, and Rule 509 of these rules. (3-31-22)~~

~~06. Manufactured Homes on Leased Land Category. Manufactured homes on leased land are all manufactured homes on leased land that the assessor listed in secondary categories 49 or 65 together with secondary category 47 as appropriate for inclusion when valuing this property, as described in Rule 511 of these rules, for the purposes of listing property values on the valuation assessment notice under Sections 63-301 and 63-308, Idaho Code, and reporting values to the Tax Commission under Section 63-509, Idaho Code, and Rule 509 of these rules. (3-31-22)~~

~~07. Agricultural Land Category. Agricultural land is all land that the assessor listed in secondary categories 1 through 5 as described in Rule 510 of these rules. For agricultural land, secondary, rather than primary, category values are to be tested if significant in any county as defined in Rule 131 of these rules. (3-31-22)~~

~~08c. Conversion Table: Secondary Categories to Primary Categories. See Conversion Table at <https://tax.idaho.gov>.~~

<b>Conversion Table: Secondary Categories to Primary Categories</b>	
<b>Secondary Categories</b>	<b>Primary Categories</b>

Conversion Table: Secondary Categories to Primary Categories	
12, 15, 18, or 20	Vacant Residential Land
10, 12, 15, 18, 20, 26, 31, 34, 37, 40, 41, 46, 47, 48, or 50	Improved Residential Property
11, 13, 14, 16, 17, 21, or 22	Vacant Commercial or Industrial Land
11, 13, 14, 16, 17, 21, 22, 27, 33, 35, 36, 38, 39, 42, 43, or 54	Improved Commercial or Industrial Property
47, 49, or 65	Manufactured Housing on Leased Land
45	Agricultural Land

(3-31-22)( )

~~092. Cross Reference. For clarification of responsibilities relating to listing values on the valuation assessment notices or reporting values on the abstracts, see Rules 114, 115, 509, 510, 511, and 512 of these rules. For descriptions of secondary categories used to list land values on the valuation assessment notices and report land values on the abstracts, see Rule 510 of these rules, used to list improvement values on the valuation assessment notices and report improvement values on the abstracts, see Rule 511 of these rules, and used to list values for all property other than land or improvements on the valuation assessment notices and report these values on the abstracts, see Rule 512 of these rules.~~

(3-31-22)( )

**131. USE OF RATIO STUDY OR OTHER METHOD TO TEST FOR EQUALIZATION IN COUNTIES (RULE 131).**

Section 63-109, Idaho Code

**01. Equalization Ratio Study - Primary Categories Other than Agricultural Land.** Each year the Tax Commission will conduct a ratio study to assist in the equalization of assessments of property within and among the primary categories, other than agricultural land, established in Rule 130 of these rules. The ratio study ~~will be~~ is conducted in accordance with the “Standard on Ratio Studies” and the “Standard on Verification and Adjustment of Sales” both referenced in Rule 0063 of these rules.

( )

~~a.~~ The annual ratio study will test assessments as of January 1 of each year. ~~Except Assessments are tested using sales occurring between October 1 of the year preceding the year for which assessments are to be tested and September 30 of the year for which assessments are tested. Alternate time frames may be used~~ when sales ~~or appraisals~~ must be added ~~or deleted~~ to improve representativeness, ~~sales used will be those occurring within each county between October 1 of the year preceding the year for which assessments are to be tested and September 30 of the year for which assessments are to be tested, or when an alternate study, as described in Subsection 09 of this rule, is to be used.~~ Each sale price ~~is to be~~ adjusted for time and compared to market value for assessment purposes for the year for which assessments are to be tested, ~~to compute ratios to be analyzed. To improve representativeness,~~ the Tax Commission may use sales from extended time periods, may add or delete sales, and may add appraisals when data is lacking. Equalization ratio studies must consist of at least five (5) sales and/or appraisals. ~~The Tax Commission may delete sales when necessary to improve representativeness.~~ Sales should be considered as potentially valid if a financial institution is the seller, provided that: criteria found in the Standard on Verification and Adjustment of Sales are met.

(3-31-22)( )

~~a.~~ Such sales ~~comprise more than twenty percent (20%) of the sales in any primary category or other category tested for equalization;~~

(3-31-22)

~~b.~~ Such sales are validated to account for changes in property characteristics; and

(3-31-22)

~~c.~~ Any properties that have been vandalized are excluded.

(3-31-22)

~~dc.~~ The study will be completed annually in February following the end of the period studied. Timing and notification of county officials is described in the “Timing and Notification Table” as provided in Subsection

~~131.03 of this rule~~ March and notice provided to county official in accordance with Section 63-109, Idaho Code. For non-agricultural categories, the appropriate ratio study statistical measure of level is the median. For agricultural land categories, level of assessment is to be determined as described in Paragraph 131.02.b. of this rule. ~~(3-31-22)( )~~

**02. Equalization Study – Agricultural Land.** Each year the Tax Commission will conduct a study to assist in the equalization of assessments of agricultural land. Any such study will analyze agricultural land values throughout each significant secondary agricultural land category using valuation methods found in Section 63-602K, Idaho Code, and Rule 617 of these rules. A secondary agricultural land category having at least ten percent (10%) of the acreage and at least five percent (5%) of the value of the primary agricultural land category is considered significant. ~~(3-31-22)( )~~

**a.** ~~Notice of results and compliance will be provided to county officials according to the timing shown in Subsection 131.03 of this rule.~~ County officials will receive notice of the results and compliance in accordance with Section 63-109, Idaho Code. ~~(3-31-22)( )~~

**b.** ~~Agricultural land secondary categories considered significant, as defined in Paragraph 131.02.c. of this rule, in any county will be subject to preliminary and follow up studies of assessment level. Both studies will be based on valuation methodology described in Rule 617 of these rules, the results of which are considered the taxable value for the agricultural land. The preliminary study will be in comparison to prior year’s assessed values. The follow up studies will test current year’s assessed values and will only be required when preliminary studies indicate level of assessment less than ninety percent (90%) or greater than one hundred ten percent (110%) of market value for assessment purposes. Assessed values for any agricultural land secondary category with an indicated level determined to be within this range and those categories not considered significant in a county will be considered in compliance. Note: For the purpose of this analysis, “level” means the ratio of the median per acre assessed value and the median per acre value for the secondary category determined by the Tax Commission using the valuation methodology found in Rule 617 of these rules.~~ Significant secondary agricultural land categories are subject to preliminary and follow-up studies of assessment level and are studied based on the valuation methodology described in Rule 617 of these rules. The preliminary study is a comparison to the prior year’s assessed values. The follow-up studies will test the current year’s assessed values and are required when preliminary studies indicate a level of assessment less than ninety percent (90%) or greater than one hundred ten percent (110%) of market value for assessment purposes. Categories meeting these criteria, and those categories not considered significant in a county, are in compliance. Level means the ratio of the median per acre assessed value and the median per acre value for the secondary agricultural land category determined by the Tax Commission using the valuation methodology found in Rule 617 of these rules. ~~(3-31-22)( )~~

**c.** ~~A secondary agricultural land category will be considered significant provided the category includes at least 10% of the acreage and at least 5% of the value of the primary agricultural land category.~~ ~~(3-31-22)~~

**dc.** ~~Secondary Agricultural land categories may also be subject to follow-up studies if the Tax Commission has received information indicating that county boards of equalization have changed values in such a way as to produce likely non-compliance. Notice for such follow up studies will comport, to the extent possible, with the procedures found in Subsection 131.06 of this rule. The time table for completing preliminary and follow up studies and providing notice is shown in the “Timing and Notification Table” found in Subsection 131.03 of this rule.~~ ~~(3-31-22)( )~~

**03. Timing and Notification** ~~Table.~~ Notice of improper assessment of any category is to occur when any category tested for equalization purposes is found out of compliance as described in this Rule. Following the first Monday in April statutory deadline for notice, additional notice will be provided as follows:

Date	Activity
April—1st Monday	The Tax Commission will notify assessors of preliminary ratio and agricultural land study results.
April—3rd Monday	The Tax Commission will notify the board of county commissioners (BOCC) of non-compliant primary ratio study categories and agricultural land secondary categories.



Date	Activity
May—1st Monday	On request by the county assessor, the Tax Commission will conduct additional studies for non-compliant categories using current year assessments.
May—2nd Monday	The Tax Commission will notify county assessors and commissioners of results of additional studies.
July—3rd Monday	The Tax Commission will conduct final follow-up studies for originally non-complying categories using county equalized values. Additional studies may be conducted if there is indication that county boards of equalization have taken actions that may have resulted in non-compliance for previously-complying primary or secondary categories. Assessors and county commissioners will be notified of results and compliance status by the 4th Monday in July, except that this deadline and the 3rd Monday in July deadline are to be extended if an extension has been granted to the county board of equalization. In that case, the final or additional studies will be finalized and notice provided within one week of the conclusion of the county board of equalization.

(3-31-22)( )

a. By the second Monday in May, the Tax Commission will notify county assessors and commissioners of results of any additional ratio studies requested by county assessors. These studies will be based on current year assessments. ( )

b. By the fourth Monday in July, the Tax Commission will notify county assessors and commissioners of the results and compliance status based on follow-up studies as provided in Subsections 05 and 06 of this Rule. ( )

c. See Timing and Notification Table at <https://tax.idaho.gov>. ( )

**04. Tested for Equalization.** Except as provided in Subsection 131.05 of this rule, categories, other than agricultural land to be tested for equalization purposes, are the primary categories, described in Subsections 130.02 through 130.06 of these rules, provided adequate samples can be obtained. Agricultural land is to be tested as provided in Subsection 131.02 of this rule. (3-31-22)( )

**05. Follow-Up Ratio Study.** When indicated, based on criteria in Paragraph 131.05.a. and 131.05.b. of this rule, a follow-up ratio study will be conducted to test the assessments for January 1 of the year following the year tested by the preliminary agricultural study or annual ratio study and if a ratio study is to be done, it will be based on property sales occurring during the calendar year immediately preceding that date. A follow-up ratio study will be indicated whenever: If the annual ratio study indicates that assessments in any primary category are out of compliance with the standards of this rule, a follow-up study is required. In addition, if the Tax Commission is informed that a county board of equalization has implemented changes to assessments, likely resulting in a category failing compliance with the standards for the current year's assessments, a follow-up study is also required. A follow-up ratio study tests the assessments for January 1 of the year following the timeframe used in the preliminary agricultural study or the annual ratio study. The follow-up study uses property sales during the calendar year immediately preceding that date, unless use of an alternate time frame for sales will provide a more representative study. (3-31-22)( )

a. The annual ratio study, provided in Subsections 131.01 and 131.02 of this rule, discloses that assessments in any primary category as described in Subsections 130.02 through 130.06 of these rules are out of compliance with the equalization standards of this rule; or (3-31-22)

b. The Tax Commission is informed after the county board of equalization adjourns and before the

~~state board of equalization adjourns of the implementation of assessment changes likely to result in a finding that a category found in compliance with equalization standards following the agricultural land study or annual ratio study would be found out of compliance with these standards for the current year's assessments. The follow-up agricultural land study or ratio study authorized under this option will be conducted for the primary category likely to be out of compliance with equalization standards and for any secondary categories comprising the primary category, provided adequate samples can be obtained.~~ (3-31-22)

**06. Notice of Follow-Up Ratio Study.** ~~The Tax Commission will notify the county assessor of the reason for and results of the follow-up ratio study. If the follow-up ratio study is conducted as provided in Paragraph 131.05.b. or 131.02.d. of this rule, the notice will be sent to the county commissioners or board of equalization and county assessor and will describe the assessment changes that resulted in the need for the follow-up ratio study. The notice will indicate whether any adjustments will be considered by the Tax Commission at its next equalization meeting in August based on either the annual, or any follow-up ratio study, and the reason for the proposed adjustments.~~ The Tax Commission will notify the county commissioners, the county board of equalization, and the county assessor of the results of any follow-up study. The notification will include a description of assessment changes if such changes initiated the follow-up study. The notice will specify the compliance status of each category and will state whether and why the Tax Commission considers adjusting non-compliant categories based on the annual or follow-up ratio studies at the State Board of Equalization meeting. (3-31-22)(\_\_\_\_)

**07. Use of Ratio Study Results.** ~~If the results of the annual ratio study or any follow-up ratio study will be one (1) source of information upon which the Tax Commission may rely when testing assessments for equalization purposes under Section 63-109, Idaho Code. When the results of any ratio study on any primary, or, if applicable under the provisions of Subsection 131.02 or Paragraph 131.05.b. of this rule, secondary category, described in Subsections 130.02 through 130.09 of these rules, show, with reasonable statistical certainty as defined in Subsection 131.11 of this rule, that the appropriate measure of level of the category studied is less than ninety percent (90%) or greater than one hundred ten percent (110%), the assessments of property within that category may be considered are not equalized. When this occurs, the Tax Commission may, at its annual meeting commencing on the second Monday in August pursuant to Section 63-108, Idaho Code, order the county auditor to adjust the value of all property in the non-compliant category or any portion of the category included in the analysis conducted in an amount the Tax Commission finds necessary to accomplish equalization of assessments of property. Within any primary category, or categories or any portion of such category, any adjustment factor recommended to the Tax Commission will be calculated by dividing the median level of assessment in the category or categories into one hundred percent (100%).~~ Except as provided in Subsections 131.02 or 131.08 of this rule, adjustment will not be considered for any secondary category, described in Rule 510, 511, or 512 of these rules, that does not have at least one (1) observation in the ratio study conducted for that primary category that does not have at least one (1) observation. (3-31-22)(\_\_\_\_)

**08. Exception from Requirement for at Least One (1) Observation for Use of Secondary Category in Adjusted Value Determination.** ~~Properties identified as secondary categories 10 and 31 rarely sell separately from farms and therefore do not appear in any ratio study. However, the level of assessment typically is similar to that of other rural residential property, including property in secondary categories 12, 15, 34, and 37. For any ratio study where there is an adjustment to be made to the assessed values in the residential designation, such adjustment will be applied to any assessed value in secondary category 10, provided there is at least one observation (sale) of property identified in either secondary category 12 or 15. Such adjustment will also be applied to any assessed value in secondary category 31, provided there is at least one (1) observation (sale) of property identified in either secondary category 34 or 37. If the ratio study results warrant an adjustment to the assessed values of the primary residential category, secondary category 10 will receive a similar adjustment if at least one (1) property observation occurs in either category 12 or 15. Such adjustment is also warranted to the assessed values in secondary category 31 if at least one (1) observation occurs in secondary category 34 or 37.~~ (3-31-22)(\_\_\_\_)

**09. Use of Alternate Ratio Study.** ~~When the follow-up ratio study required by Subsection 131.05 of this rule does not measure the true assessment level, the Tax Commission may consider adjustments based on the most recent annually conducted ratio study or other information relevant to equalization. If the Tax Commission has reason to question the representativeness of the sample used in an annual or follow-up ratio study conducted on any primary category, the Tax Commission may delay implementation of any order to adjust property values until two (2) successive years' ratio studies fail to produce an appropriate measure of level between ninety percent (90%) and one hundred ten percent (110%).~~ (3-31-22)(\_\_\_\_)

**10. Submission of Additional Information.** Any party may ~~petition request that~~ the Tax Commission ~~to~~ consider any information or studies relevant to equalization. ~~The petition~~ Such a request will include a description of the information to be presented and ~~the petitioner's~~ conclusions drawn from the information. (3-31-22)(    )

**11. Reasonable Statistical Certainty.** For the purposes of ~~Rule 131 and equalization pursuant to Section 63-109, Idaho Code~~ equalization of primary categories other than agricultural categories, “reasonable statistical certainty” that any primary category is not equalized ~~will mean that the appropriate measure of level determined by the ratio study for any category tested for equalization must be provably less than ninety percent (90%) or greater than one hundred ten percent (110%) of market value for assessment purposes. Such a determination will occur~~ is found if: (3-31-22)(    )

**a.** The ~~appropriate measure of level~~ median ratio for the category(ies) being tested is less than ninety percent (90%) or greater than one hundred ten percent (110%) and a ninety percent (90%) two-tailed confidence interval around the ~~appropriate measure of level~~ median fails to include ninety percent (90%) or one hundred ten percent (110%); or (3-31-22)(    )

**b.** ~~The appropriate measure of level for the category(ies) being tested has been less than ninety percent (90%) or greater than one hundred ten percent (110%) as determined by the most recent previous two (2) ratio studies on the category(ies) and a~~ An eighty percent (80%) two-tailed confidence interval around the ~~appropriate measure of level~~ median fails to include ninety percent (90%) or one hundred ten percent (110%). ~~No ratio study completed prior to August 31, 2007 will be considered as one of the most recent previous two (2) ratio studies and this failure has continued for the current and most recent two year's ratio studies on the category(ies).~~ (3-31-22)(    )

**12. Cross References.** ~~The primary categories are described in Subsections 130.02 through 130.07 of these rules, and the secondary categories are described in Rules 510, 511, and 512 of these rules~~ See Rules 130, 510, 511, 512, and 617. (3-31-22)(    )

**132. -- 204. (RESERVED)**

**205. PERSONAL AND REAL PROPERTY — DEFINITIONS AND GUIDELINES (RULE 205).**  
Sections 39-4105, 39-4301, 63-201, 63-302, 63-309, 63-602KK, 63-1703, 63-2801, Idaho Code

**01. Real Property.** Real property is defined in Section 63-201, Idaho Code. Real property consists of land and improvements. (3-31-22)

**a.** Land. Land is real property as well as all rights and privileges thereto belonging or any way appertaining to the land. (3-31-22)

**b.** Law and Courts. Real property also consists of all other property which the law defines, or the courts may interpret, declare, and hold to be real property under the letter, spirit, intent, and meaning of the law. (3-31-22)

**c.** Improvements. Improvements are buildings, structures, fences, and similar properties that are built upon land. Improvements are real property regardless of whether or not such improvements are owned separately from the ownership of the land upon or to which the same may be erected, affixed, or attached. (3-31-22)

**02. Personal Property.** Personal property is defined in Section 63-201, Idaho Code, as everything that is the subject of ownership that is not real property. (3-31-22)

**03. Fixtures.** Fixtures are defined in Section 63-201, Idaho Code, as articles that were once moveable personal property items but have become real property as determined by the application of the three factor test. (3-31-22)

**a.** The three factor test consists of annexation, adaptation and intent as explained below. (3-31-22)

~~i. Annexation. Although once moveable chattels, articles become accessory to and a part of improvements to real property by having been physically or constructively incorporated therein or annexed or affixed thereto in such a manner that removing them would cause material injury or damage to the real property; and~~ (3-31-22)

~~ii. Adaptation. The use or purpose of an item is integral to the use of the real property to which it is affixed; and~~ (3-31-22)

~~iii. Intent. Items should be considered personal property unless a person would reasonably be considered to intend to make the articles, during their useful life, permanent additions to the real property. The intent depends on an objective standard and what a reasonable person would consider permanent and not the subjective intention of the owner of the property.~~ (3-31-22)

~~b. If an item of property satisfies all three factors of the three factor test, the item becomes a fixture and therefore real property.~~ (3-31-22)

~~04. Operating Property. Operating Property is defined in Section 63-201, Idaho Code. For any purpose for which the distinction between personal property and real property is relevant or necessary for operating property, operating property will be characterized as personal or real based upon the criteria stated in this guideline and the rules of the Tax Commission.~~ (3-31-22)

~~206.—~~216. (RESERVED)

217. RULES PERTAINING TO MARKET VALUE DUTY OF COUNTY ASSESSORS ~~(RULE 217)~~.  
Section 63-208 Idaho Code

01. ~~Market Value Definition. Market value is the most probable amount of United States dollars or equivalent for which a property would exchange hands between a knowledgeable and willing seller, under no compulsion to sell, and an informed, capable buyer, under no compulsion to buy, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.~~ (3-31-22)(    )

a. ~~The assessor will value the full market value of the entire fee simple interest of property for taxation.~~ Net taxable value is market value after subtracting Sstatutory exemptions will be subtracted. (3-31-22)(    )

b. ~~Personal property will be~~ is valued at retail level. (3-31-22)(    )

02. ~~Appraisal Approaches. Three (3) approaches to value will be~~ are considered ~~on~~ for all property ~~and are the sales comparison approach, the cost approach and the income approach.~~ The three (3) approaches to market value are: (3-31-22)(    )

~~a. The sales comparison approach;~~ (3-31-22)

~~b. The cost approach; and~~ (3-31-22)

~~c. The income approach.~~ (3-31-22)

03. ~~Appraisal Procedures. Market value for assessment purposes will be determined through procedures, methods, and techniques recommended by nationally recognized appraisal and valuation associations, institutes, and societies and according to guidelines and publications approved by the Tax Commission. The appraisal procedures, methods, and techniques using the income approach to determine the market value for assessment purposes of income producing properties must use market rent, not contract rent. Assessors will use guidelines and publications of nationally recognized appraisal and valuation associations, institutes, and societies including those referenced in Rule 003 of these rules, to determine market value for assessment purposes.~~ (3-31-22)(    )

04. Determining Value. The income approach to value, used in appraisal procedures, methods, and

techniques, to determine market value for assessment purposes of income-producing properties, must use market rent, not contract rent. ( )

**218. ASSESSOR'S PLAT BOOK ~~(RULE 218).~~**

Sections 31-2709, 50-1304, 55-1603, 55-1901, 55-1911, 63-209, 63-210, 63-212, 63-219, 63-307, Idaho Code

**01. Plat Maps.** The assessor will prepare plat maps for all land. ( )

**a. ~~Plat map format.~~ Plat maps may be drafted and maintained either in ~~ink, on drafting film, paper~~ or in a digital format. ~~When such maps are on drafting film, thirty (30) inch by thirty-six (36) inch, 0.003 inch drafting film (minimum thickness) should be used. Smaller plat map sizes are permitted as long as they clearly depict parcel boundaries and dimensions.~~ (3-31-22)( )**

**b. ~~Maintenance of plat maps.~~ Plat maps of townships, sections, aliquot parts, subdivisions, and parcel boundaries completed after July 1, 2013, ~~will be~~ are updated and maintained in accordance with the "Manual of Surveying Instructions" referenced in Rule 003 of these rules. (3-31-22)( )**

**c. ~~Maintenance of parcel numbers and all other desired information.~~ Parcel numbers, and all other desired information, ~~will be~~ are maintained in a digital format or ~~drafted with ink paper formats.~~ Annotative information ~~will be~~ is added as necessary and, if plotted by computer, ~~be~~ is of appropriate font style and size to be easily readable. The minimum letter height ~~will be~~ is one point two five (1.25) millimeters. (3-31-22)( )**

**02. Section Outlines.** ~~Section outlines will be~~ Are mapped according to: (3-31-22)( )

**a.** Technical descriptions of Bureau of Land Management, formerly the General Land Office (GLO), surveys, Section 31-2709, Idaho Code; ( )

**b.** Descriptions on recorded surveys, Sections 55-1901 through 55-1911, Idaho Code; ( )

**c.** Recorded corner perpetuation records, Sections 55-1603 through 55-1612, Idaho Code; ( )

**d.** Recorded subdivision plats and assessor's plats, Sections 50-1301 through 50-1330, 63-209, and 63-210(2), Idaho Code; ( )

**e.** Deeds or contracts with metes and bounds descriptions, Section 31-2709, Idaho Code; ( )

**f.** Highway, railroad, and other engineering quality route surveys; ( )

**g.** Relevant court decisions; and ( )

**h.** Unrecorded data from registered land surveyors, Section 31-2709, Idaho Code. ( )

**03. Subdivisions of Sections.** ~~Subdivision of sections will be~~ Are mapped in accordance with Sections 31-2709 and 63-209, Idaho Code. (3-31-22)( )

**04. Map Scales.** ~~Non-Computer and computer generated maps will be sealed.~~ ( )

**a.** Non-computer ~~generated maps.~~ ~~Non-~~ and computer generated maps ~~will be~~ are scaled using the following standards: (3-31-22)( )

**i.** One (1) township at one (1) inch = fourteen thousand four hundred (14,400) inches (1,200 feet), 1:14,400; ( )

**ii.** Four (4) sections at one (1) inch = four thousand eight hundred (4,800) inches (400 feet), 1:4,800; one (1) section at one (1) inch = twenty four hundred (2400) inches (200 feet), 1:2,400; and (3-31-22)( )

**iii.** One (1) quarter section at one (1) inch = twelve hundred (1,200) inches (100 feet), 1:1,200.

( )

b. ~~Mapping done from aerial photographs.~~ Mapping ~~done from~~ completed using aerial photographs will have the scale recalculated and shown on the map. (3-31-22)( )

c. Plat maps of subdivision, townsite, and metes and bounds parcels ~~Subdivision, townsite, and metes and bounds parcels will be~~ are mapped to include the basis of bearing with monuments and their coordinates relative to the "Idaho Coordinate System" as described by Sections 31-2709, 50-1301, 50-1303, and 50-1304, Idaho Code. (3-31-22)( )

d. Drafting of plat titles, subdivision names, and parcel dimensions. ~~Plat titles, subdivision names, and parcel dimensions will be~~ are drafted ~~with ink, or generated by computer on paper or digital form~~ at an appropriate scale. The minimum letter height ~~will be~~ is one point two five (1.25) millimeters. (3-31-22)( )

05. **Property Ownership Records.** ~~Ownership will be shown on the property~~ Demonstrate current ownership records. (3-31-22)( )

a. Ownership notations. ~~Ownership notations~~ include the reputed owner of the property, or note that the owner is unknown, or list other persons with interests of record. Ownership may be ascertained from numerous recorded sources as described in Sections 63-212 and 63-307, Idaho Code. (3-31-22)( )

b. ~~Insertion of additional names.~~ Purchasers, agents, guardians, executors, administrators, heirs, and claimants may have their names inserted with the recorded owner's name as ~~explained~~ described in Sections 63-212 and 63-307, Idaho Code. (3-31-22)( )

219. **UNIFORM PARCEL NUMBERING SYSTEM** ~~(RULE 219)~~.  
Sections 63-209, 63-210, 63-219, Idaho Code

01. **Definitions.** The following definitions apply to this rule. ( )

a. Parent parcel. ~~A is a~~ is a parcel of land in its original state prior to being segregated. The parcel may be described by a metes and bounds description, lot and block, aliquot part, or government lot. (3-31-22)( )

b. Child parcel. ~~A is a~~ is a parcel of land which has been segregated from the parent parcel. At the time a parent parcel is segregated into one or more parts, the parcels being segregated from the parent parcel ~~will be~~ are known as child parcels. The child parcel may be described by a metes and bounds description, a portion of a lot and block, a portion of an aliquot part, or a portion of a government lot. (3-31-22)( )

02. **Parcel Number** ~~Functions~~ Assignment. ~~The uniform parcel numbering system will be used for mapping and record keeping.~~ Each parcel ~~will be~~ is assigned a parcel number that will appear on the plat map and on a companion sheet. This assigned parcel number may also be known as the tax parcel number. (3-31-22)( )

03. **Parcel Number** ~~Cancellation or Retention~~ Upon Property Transfers. As long as the property boundary does not change, the new owner's name ~~will be~~ is assigned to the same parcel number on the companion sheet. A parcel number that exists at the time a property is ~~divided~~ split or ~~added to~~ combined may be ~~canceled~~ terminated and a new child number(s) assigned. ~~If the parent parcel number is not canceled, it will be assigned to the child parcel complying with the directions in this rule relating to assigning parcel numbers based on geographic location.~~ (3-31-22)( )

04. **Property Split by County Line, Section Line, or Tax Code Area Boundary.** Properties contiguous under common ownership but split by county line or tax code area boundary will require separate parcel numbers. Properties contiguous under common ownership but split by section or township line(s) and entirely located within the same county and tax code area will not require separate parcel numbers and the lowest section number ~~will be~~ is included in the parcel number as explained in Paragraph 219.05.c. of this rule. (3-31-22)( )

05. **Rural Land Not Subdivided.** Assign parcel numbers to rural land that is not subdivided as follows: ( )

- a. Positions 1, 2, and 3 ~~will be~~ are the township descriptor minus the “T.” (3-31-22)( )
- b. Positions 4, 5, and 6 ~~will be~~ are the range descriptor minus the “R.” (3-31-22)( )
- c. Positions 7 and 8 ~~will be~~ are the section number. For properties contiguous under common ownership and split by section line(s) so that the parcel is located in multiple sections, the lowest section number ~~will be~~ is used. If the section number is less than ten (10), the section number is in position 8, preceded by a zero (“0”) in position 7. ( )

d. Positions 9, 10, 11, and 12 ~~will be~~ are the quarter section numbers. To assign the quarter section number, begin numbering in the northeast quarter (NE1/4) of the northeast quarter (NE1/4) and proceed counterclockwise. Starting in the NE1/4 of the section the numbers used range from zero to two thousand three hundred ninety-nine (0000 to 2399). Continuing counterclockwise, beginning in the NE1/4 of the northwest quarter (NW1/4), the numbers continue from two thousand four hundred to four thousand seven hundred ninety-nine (2400 to 4799), then ~~ee~~, starting in the NE1/4 of the southwest quarter (SW1/4), assign numbers from four thousand eight hundred to seven thousand one hundred ninety-nine (4800 to 7199), and beginning in the NE1/4 of the southeast quarter (SE1/4), assign quarter section numbers from seven thousand two hundred to nine thousand nine hundred ninety-nine (7200 to 9999). ~~The following quarter section breakdown key shows the sequence for assigning quarter section numbers for land not subdivided.~~ (3-31-22)( )

**06. Urban Land not Subdivided.** Assign parcel numbers to urban land that is not subdivided as follows: ( )

- a. Position 1 ~~will be~~ is the city letter. Each city will have a unique letter. (3-31-22)( )
- b. Positions 2, 3, 4, 5, and 6 ~~will each be~~ are the number zero (“0”). (3-31-22)( )
- c. Positions 7 and 8 ~~will be~~ are the section number. Number these positions as directed in Paragraph 219.05.c. of this rule. (3-31-22)( )
- d. Positions 9, 10, 11, and 12 ~~will be~~ are the quarter section number. Number these positions as directed in Paragraph 219.05.d. of this rule. (3-31-22)( )
- e. When a metes and bounds parcel inside city limits is being numbered, positions 9, 10, 11, and 12 locate the parcel to the nearest quarter section. ( )
- f. If a government lot is within a section, or an extended government lot is an extension of a section, the quarter section numbering ~~will be~~ is assigned as rural land not subdivided. For a government lot within a quarter section, the assigned number ~~will be~~ is a number within the sequence of numbers for the quarter section. For an extended section, the assigned number ~~will be~~ is within the sequence from the extended quarter section. (3-31-22)( )

~~g. The following parcel number example denotes a parcel in the NE1/4 of section 29 in the city identified by the letter “A”: A00000292163. (3-31-22)~~

**07. Subdivided Rural Land.** Assign parcel numbers to subdivided rural land as follows: ( )

- a. Position 1 ~~will be~~ is the number zero (“0”). (3-31-22)( )
- b. Positions 2, 3, 4, and 5 ~~will be~~ are the subdivision number. The subdivision number will not contain alphabetic characters. Each subdivision, whether the original townsite or new subdivision, ~~will be~~ is assigned a four (4) digit number. (3-31-22)( )
- c. Positions 6, 7, and 8 ~~will be~~ are the block number. (3-31-22)( )
- d. Positions 9, 10, and 11 ~~will be~~ indicate the lot number designated on the subdivision plat or an

assigned number if characters on the subdivision plat are not acceptable as a parcel number. (3-31-22)( )

e. Position 12 ~~will be is~~ the number zero (“0”) if the lot is as originally platted. If a lot has been split once or combined once, then this becomes the letter “A.” If split a second time, the letter becomes a “B,” ~~etceteras and so on~~. These splits or combinations ~~will be are~~ listed on the companion sheet. (3-31-22)( )

~~f. The following parcel number example denotes a subdivided parcel not in any city, identified by the number zero (“0”), subdivision number 62, block number 200, and lot number 29: 000622000290. (3-31-22)~~

**08. Subdivided Urban Land.** Assign parcel numbers to subdivided urban land as follows: ( )

a. Position 1 ~~will be is~~ the city letter. Each city will have a unique letter. (3-31-22)( )

b. Positions 2, 3, 4, and 5 ~~will be are~~ the subdivision number. The subdivision number will not contain alphabetic characters. Each subdivision, whether the original townsite or a new subdivision, ~~will be is~~ assigned a four (4) digit number. (3-31-22)( )

c. Positions 6, 7, and 8 ~~will be are~~ the block number. (3-31-22)( )

d. Positions 9, 10, and 11 ~~will be indicate~~ the lot number designated on the subdivision plat. ~~or A an assigned subdivision plat number may be used if numbers comply with the parcel numbering system if characters on the subdivision plat are not acceptable as a parcel number.~~ (3-31-22)( )

e. Position 12 ~~will be is~~ the number zero (“0”) if the lot is as originally platted. If a lot has been split once or combined once, then this becomes the letter “A.” If split a second time, the letter becomes a “B,” ~~etceteras and so on~~. These splits or combinations ~~will be are~~ listed on the companion sheet. (3-31-22)( )

f. When one (1) whole lot and part of another adjoining lot are under common ownership, one (1) parcel number may be assigned. That parcel number ~~will be is~~ written using the whole lot's number and position 12 ~~will be is~~ a letter. (3-31-22)( )

~~g. Example: A parcel in a city identified by the letter “A”, in a subdivision with number 0062, in a block with number 200, a lot with number 029, and modified once will have the parcel number A0062200029A. (3-31-22)~~

**09. Patented Mines and Patented Mining Claims.** Assign parcel numbers to patented mines and mining claims as follows: ( )

a. ~~Positions 1 and 2 are F~~ the number nine (“9”) ~~will be in positions 1 and 2.~~ (3-31-22)( )

b. Positions 3 through 8 ~~will~~ denote the township and range, as in the land not subdivided format. (3-31-22)( )

c. Positions 9 through 12 ~~will be are~~ a county assigned sequential account number for individual mines. (3-31-22)( )

~~d. The following parcel number example denotes a patented mine in township 10 North, Range 36 East, with county assigned number 58: 9910N36E0058. (3-31-22)~~

**10. Condominiums.** Assign parcel numbers to condominiums as follows: ( )

a. Condominiums in a city will have a letter in position 1 of the parcel number. The letter ~~will be is~~ unique for each city. For condominiums not in any city, position 1 is the number zero (“0”). (3-31-22)( )

b. Positions 2, 3, 4, and 5 ~~will be indicate~~ the condominium number and ~~will be is~~ four (4) ~~numbers digits~~. To differentiate between condominiums and subdivisions, numbers 0001 through 8999 are to be used for subdivisions, and numbers 9000 through 9999 for condominiums. Fill positions preceding the number with zeros to



occupy all four (4) positions (“0000”). (3-31-22)( )

c. Positions 6, 7, and 8 ~~will be~~ are the block or building number. Position 6 may be a “C” to differentiate between a typical block or building number and a condominium common area. (3-31-22)( )

d. Positions 9, 10, and 11 ~~will be~~ are the lot or unit number designated on the condominium plat or an assigned number. An assigned condominium plat number may be used if numbers comply with the parcel numbering system. ( )

e. Position 12 ~~will be~~ is the number zero (“0”) if the parcel has not been modified since originally platted. If it has been split once or combined once, then this character becomes an “A.” If split a second time, the character becomes a “B,” ~~eteeteras~~ and so on. These splits or combinations ~~will be~~ are listed on the companion sheet. (3-31-22)( )

~~f. The following parcel number example denotes a parcel that is in the city identified by the letter “A,” with condominium number 9062, block or building number 007, lot or unit number 029, and has not been modified since originally platted: A90620070290.~~ (3-31-22)

**220. RULES PERTAINING TO ASSESSMENT OF INTERNAL REVENUE CODE (IRC) SECTION 42 LOW-INCOME PROPERTIES (RULE 220).**  
Section 63- 205A, Idaho Code

~~01. Definitions. The following definitions apply to the appraisal of IRC section 42 low income properties as used in Section 63-205A, Idaho Code, and in this rule.~~ (3-31-22)( )

a. Amount of Housing Tax Credits. The ~~“Amount of Housing Tax Credits” is the~~ Housing Tax Credits divided by the number of years of the term of the Tax Credit Regulatory Agreement. (3-31-22)( )

b. Asset Management Fee. ~~“Asset Management Fee” is a~~ Δ An annual fee paid to the limited partner for property management oversight, tax credit compliance monitoring, and related services. (3-31-22)( )

c. Audit Fee. ~~“Audit Fee” is t~~ Δ The fees and costs that may be charged by accountants for preparation and review of financial statements on behalf of the owner or investor. (3-31-22)( )

d. Compliance Fee. ~~“Compliance Fee” is t~~ Δ The fees and costs, if any, that may be charged by the Idaho Housing Financing Association (IHFA), or its agent, for review and inspection of the owner’s records, or the physical inspection of the project, as are required by the Regulatory Agreement or federal law. (3-31-22)( )

e. Existing Section 42 Project. ~~An “Existing Section 42 Project” is a~~ Δ Section 42 low-income project for which Housing Tax Credits were entirely distributed before January 1, 2009. (3-31-22)( )

f. Federal Project Based Assistance. ~~“Federal Project Based Assistance” means:~~ (3-31-22)( )

i. Rental assistance of any kind provided by the Department of Housing and Urban Development or other agencies of the United States federal government which allow for rental assistance payments to the owner on behalf of the project and not on behalf of any individual tenant; or ( )

ii. Apartment projects that have federal financing at below market terms at the time when the financing was put in place, which financing is transferable without change in terms and conditions to subsequent transferees; or ( )

iii. Apartment projects that receive financing from the federal Hope VI programs administered under 42 USC section 1437v. ( )

g. Financial Statements. ~~“Financial Statements” are p~~ Δ Profit and loss statements, or equivalent reports, that include a detailed schedule showing income and expense line items, the project’s rent roll showing the rent charged for each unit, and a copy of the IHFA’s Annual Occupancy Report that is submitted annually by each

project's owner or agent to the IHFA. (3-31-22)( )

**h.** General Partner Fee. ~~"General Partner Fee" is t~~The portion of cash flow that is paid to the general partner to compensate the general partner for managing the partnership's operating assets and coordinating the preparation of the required IHFA's, federal, state, and local tax and other required filings and financial reports. (3-31-22)( )

**i.** Housing Tax Credits. ~~The "Housing Tax Credits" are the~~ final total federal income tax credits as shown on the first year's form 8609 and allocated by the IHFA to the project either in an original allocation or a new allocation and reported to the Tax Commission by the IHFA. (3-31-22)( )

**j.** Tax Credit Regulatory Agreement. ~~The "Tax Credit Regulatory Agreement" means the~~ original agreement, or the extended agreement, between the section 42 project owner and the IHFA. (3-31-22)( )

~~**02. Appraisal Approaches.** The cost approach, the sales comparison approach, and the income approach will be considered when appraising section 42 properties. The individual values produced by each approach will be correlated into a single property value. (3-31-22)~~

~~**a.** The Cost Approach. The cost approach will be adjusted for any economic obsolescence caused by rent restrictions imposed by the Tax Credit Regulatory Agreement. (3-31-22)~~

~~**b.** The Sales Comparison Approach. When available, sales of section 42 low-income properties that are similar and comparable will be used. When non-section 42 comparable sales are used in this approach, the sales must be adjusted for the appropriate property attributes. (3-31-22)~~

~~**e.** The Income Approach. The application of the income approach will include the following procedures and provisions: (3-31-22)~~

~~**i.** Market rents of section 42 properties and normalized expenses of section 42 properties must be used to determine net income unless the taxpayer fails to provide the Financial Statements in accordance with Subsection 220.03 of this rule. If the Financial Statements are not provided, the assessor may use market rents of non-section 42 properties and normalized expenses of non-section 42 properties to determine net income. If Financial Statements are not provided, the Amount of Housing Tax Credits will not be added to the capitalized net income. (3-31-22)~~

~~**ii.** The Amount of Housing Tax Credits will not be used in the appraisal of Existing Section 42 Projects. (3-31-22)~~

~~**iii.** The Amount of Housing Tax Credits will, for the duration of the Tax Credit Regulatory Agreement, be included in the appraisal of section 42 properties that have received or will receive an allocation of Housing Tax Credits after January 1, 2009. (3-31-22)~~

~~**iv.** The Amount of Housing Tax Credits, when applicable to the appraisal, will not be included in the net income capitalized to value but will be added to the capitalized net income. (3-31-22)~~

~~**v.** The Tax Commission's determination of capitalization rates derived from sales will not preclude the use by the assessor of other methods for determining the capitalization rate, provided however, such other methods are consistent with Section 63-205A, Idaho Code, and this rule. (3-31-22)~~

~~**032. Financial Statements to be Provided by the Owners.** The owners of section 42 properties will, by April 1 of each year, provide to the Tax Commission the prior year's Financial Statements. Failure to provide the Financial Statements by April 1 will result in the appraisal of the section 42 property as if it were an unrestricted rent, non-section 42 property. The Tax Commission will forward to the assessor all Financial Statements received from the owners of section 42 properties and the information received from the IHFA by April 15. The assessor will use the Financial Statements to develop normalized income and expense information to be used in the appraisal of section 42 properties as described in Section 63-205A, Idaho Code. (3-31-22)( )~~

~~04. Tax Commission to Provide Information on Section 42 Property Sales.~~ The Tax Commission will gather information from sale transactions of section 42 properties and will compute the capitalization rate for each sale. The Tax Commission will, for sales acquired during the immediate prior year, send capitalization rates and all information used to determine these rates to each county assessor by April 15. If information from three (3) or more comparable sale transactions of section 42 properties is sent to the assessors, the assessors will consider these sales' capitalization rates in their determination of the capitalization rate to be used in appraising the particular section 42 property or group of section 42 properties. (3-31-22)

~~053. Cross Reference.~~ For an explanation of why income tax credits should be allowed in section 42 assessments, see Brandon Bay, Ltd. Partnership v. Payette County, 142 Idaho 681, 132 P.3d 438 (2006). (3-31-22)( )

221. -- 224. (RESERVED)

**225. DOCUMENTATION FOR NEWLY ORGANIZED OR ALTERED TAXING DISTRICTS OR REVENUE ALLOCATION AREAS (RAAs) UNDER THE JURISDICTION OF URBAN RENEWAL AGENCIES (RULE 225).**

Sections 31-1411, 50-2907, 50-2908, 63-215, 63-807, 63-1202, 63-3029B, 63-3638, Idaho Code

**01. Definitions.** The following definitions apply for cities, taxing districts, or revenue allocation areas (RAAs) under the jurisdiction of urban renewal agencies being organized or formed or altering boundaries. (3-31-22)( )

~~a. Taxing Districts.~~ The term taxing districts as used in this rule means taxing districts and taxing units. (3-31-22)

~~ba. Alter.~~ Alter or any derivatives of the word as used in Section 63-215, Idaho Code, means annex, de-annex, or consolidate or derivatives of these words. (3-31-22)( )

~~eb. Contiguous.~~ Contiguous means being in actual contact or touching along a boundary or at a point and is synonymous with abutting on. (3-31-22)( )

~~dc. Deannex.~~ De-annex means to delete or remove a portion but not all of a boundary for a city, taxing district, or RAA revenue allocation area by completing all legal requirements to establish a new boundary for the city, taxing district or RAA revenue allocation area. (3-31-22)( )

~~ed. Disincorporate.~~ Disincorporate or any derivatives of the word as used in Section 63-3638, Idaho Code, means completing all legal requirements to end the existence of a city. (3-31-22)( )

~~fe. Dissolve.~~ Dissolve or any derivatives of the word as used in Section 63-3638, Idaho Code, means completing all legal requirements to end the existence of a taxing district or RAA revenue allocation area. (3-31-22)( )

~~gf. Legal Description.~~ Legal description means a narrative that describes, by metes and bounds, a definite boundary of an area of land that can be mapped on a tax code area map and shall include: (3-31-22)( )

i. Section, township, range, and meridian; (3-31-22)( )

ii. An initial point, being a government surveyed corner, such as a section corner, quarter corner, or mineral survey corner; (3-31-22)( )

iii. A true point of beginning, defined by bearings and distances from the initial point, that begins a new city, taxing district, RAA revenue allocation area, or any alteration thereto; and (3-31-22)( )

iv. Bearings and distances that continuously define the boundary of any area with a closure accuracy of at least one (1) part in five thousand (5,000). Variations from this closure requirement may be approved by the Tax Commission if the description is sufficiently certain and accurate to ensure that the property is assigned to the proper

tax code area. Such variations may include: ( )

(1) Boundaries which follow mountain ranges, rivers, highways, lakes, canals and other physical features that are clearly delineated on published U.S. Geological Survey quadrangle maps at scale 1:24,000; or ( )

(2) References to cardinal directions, government survey distances, and section or aliquot part corners; or ( )

(3) References to recorded subdivision or town site plats, with copies of such plats; or ( )

(4) Legislatively established boundaries as defined by reference to Idaho Code sections: ~~and~~ ~~(3-31-22)~~( )

v. The legal description to annex to or deannex from an existing ~~city~~, taxing district, or ~~RAA~~ revenue allocation area shall plainly and clearly define the boundary lines of the deannexed or annexed area and include a reference to existing boundaries where contiguous. ~~(3-31-22)~~( )

~~hg.~~ ~~Map Prepared in a Draftsman-like Manner~~—Map prepared in a draftsman-like manner means an original graphic representation or precise copy matching the accompanying legal description and drafted to scale using standard mechanical drawing instruments or a computer. The map shall include: ( )

i. Section, township, range, and meridian identifications; ( )

ii. North arrow, bar scale, and title block; ( )

iii. District name and ordinance number or order date; ( )

iv. Bearing and distance annotation between boundary points or a legend or table identifying the bearing and distance between each set of boundary points; ( )

v. Clearly defined boundary lines of the newly formed city, taxing district, or ~~RAA~~ revenue allocation area or of the alteration to an existing one together with reference to the existing boundary where contiguous; ~~and~~ ~~(3-31-22)~~( )

vi. Variations from the requirements of Paragraph 225.01 ~~hg.~~ of this rule for what must be included on the map may be approved by the Tax Commission if the map is sufficiently certain and accurate to ensure that the property is assigned to the proper tax code area. ~~(3-31-22)~~( )

~~ih.~~ ~~Countywide taxing district~~—A countywide taxing district is a taxing district having the same boundaries as one (1) or more counties. ~~(3-31-22)~~( )

**02. Documentation to Be Filed for Newly Created or Altered ~~Cities, Taxing Districts, or RAAs~~ Revenue Allocation Area.** The following documentation shall be filed with the county assessor, county recorder, and the Tax Commission no later than thirty (30) days following the effective date of any action creating or altering a ~~city~~, taxing district, or ~~RAA~~ revenue allocation area boundary, but no later than January 10 of the following year when any action creating or altering said boundary occurs after December 10. ~~(3-31-22)~~( )

a. A legal description which plainly and clearly defines the boundary of a newly formed ~~city~~, taxing district, or ~~RAA~~ revenue allocation area or the boundary of an alteration to an existing one. ~~(3-31-22)~~( )

b. A copy of a map prepared in a draftsman-like manner, or a record of survey as defined by ~~Chapter 19, Title 55 in Section 55-1902~~, Idaho Code, which matches the legal description. ~~(3-31-22)~~( )

c. A copy of the ordinance or order effecting the formation or alteration. ( )

d. For fire districts annexing territory within an existing fire district and/or city, a copy of the written

approval from that existing fire district and/or city. ( )

e. In cases where newly created taxing district boundaries are countywide a copy of the ordinance or order effecting the formation which clearly states that the newly formed district is to be countywide shall fulfill the requirements of documents to be filed in Paragraphs 225.02.a. through 225.02.c. of this rule. ( )

**03. Documentation to Be Filed for Disincorporated Cities, ~~or~~ Dissolved Taxing Districts, or ~~RAAs~~ Terminated Revenue Allocation Areas.** (3-31-22)( )

a. No later than thirty (30) days following the effective date of the final action disincorporating a city or dissolving a taxing district or ~~RAA revenue allocation area~~, but no later than January 10 of the following year ~~when if~~ the final action occurs after December 10, for the distributions of revenue as provided for in Sections 50-2908, 63-1202, 63-3029B and 63-3638, Idaho Code, the disincorporating, or dissolving entity shall file a copy of the ordinance or order causing the disincorporation or dissolution with the county assessor, county recorder and the Tax Commission. (3-31-22)( )

b. Upon receipt of the ordinance or order from a disincorporating city or dissolving taxing district, or ~~RAA in the case of a revenue allocation area, upon notification of revenues sufficient to cover expenses as provided in Section 50-2903(5), Idaho Code~~, the Tax Commission shall prepare and send a list of the affected tax code area number(s) to the city, taxing district, or urban renewal agency and to the appropriate assessor(s) and recorder(s) within thirty (30) days except for any ordinance, ~~or~~ order, ~~or notification~~ received after January 1 when the list shall be sent by the fourth Friday of January. (3-31-22)( )

c. After fourteen (14) days from the date of the mailing of the list of the affected tax code area(s), the Tax Commission shall process the disincorporation, ~~or~~ dissolution, ~~or termination~~ unless it receives a response from the disincorporating city, or dissolving taxing district, appropriate urban renewal agency, appropriate recorder(s) or appropriate assessor(s) that an error exists in the identification of the tax code area(s). (3-31-22)( )

d. For ~~RAAs revenue allocation areas~~ formed prior to July 1, 2011, within thirty (30) days of ~~the earlier of one (1) year prior to any dissolution the termination~~ date found in the formation ordinance or the date ~~as of which an RAA the revenue allocation area~~ has been in existence for twenty-three (23) years, the Tax Commission will notify the urban renewal agency of the date ~~by which the RAA will be the revenue allocation area is considered dissolved terminated~~. Such notice shall include a statement indicating that the ~~RAA revenue allocation area~~ may remain in existence if necessary to pay off existing bonded indebtedness, provided that, within thirty (30) days of receipt of this notice, the urban renewal agency notifies the Tax Commission of such bonded indebtedness. ~~Failure to provide notice of the dissolution date by the State Tax Commission to the urban renewal agency does not negate the statutory requirement for the urban renewal agency to dissolve.~~ (3-31-22)( )

e. For ~~RAAs the revenue allocation area~~ formed beginning July 1, 2011, the notification procedures in Paragraph 225.03.d. of this rule shall be initiated within thirty (30) days of ~~the earlier of one (1) year prior to any dissolution the termination~~ date found in the formation ordinance or the date ~~as of which an RAA the revenue allocation area~~ has been in existence for twenty (20) years. (3-31-22)( )

**04. Digital Map Information.** Digital map information in a format usable by the Tax Commission may be submitted in addition to or as a substitute for any cloth, film, or paper copy maps. Such information shall be accompanied by metadata that clearly defines map projection, datum and attributes. ( )

**05. Deadline for Completion.** December 31 of the current year shall be the deadline for completing ~~of~~ any action that creates, alters, or dissolves any taxing district or ~~RAA terminates a revenue allocation area~~ or creates, alters, or disincorporates any city ~~requiring a revision of the State Tax Commission's tax code area maps for the following year, unless the law provides otherwise.~~ (3-31-22)( )

**06. Approval of Property Tax Levy or Revenue Allocation.** For the purpose of levying property taxes or receiving revenue allocations, no newly formed or altered city, taxing district, or ~~RAA revenue allocation area~~ shall be considered formed or altered by the Tax Commission if it: (3-31-22)( )

a. Fails to provide the correct documentation plainly and clearly designating the boundaries of a

newly formed city, taxing district, or ~~RAA revenue allocation area~~ or of an alteration to an existing one; or (3-31-22)( )

b. Fails to provide the correct documentation in sufficient time for the Tax Commission to comply with Rule 404 of these rules; or ( )

c. Has boundaries which overlap with like ~~cities~~, taxing districts or ~~RAAs revenue allocation areas~~. (3-31-22)( )

d. ~~Is a revenue allocation area that H~~ has had one (1) previous annexation on or after July 1, 2011, and is requesting to annex additional area. ~~In this case, the annexation request will be denied, and the area of the RAA established prior to the new annexation will be considered to comprise the entire RAA.~~ (3-31-22)( )

**07. Notification.** Notification required pursuant to Section 63-215, Idaho Code, ~~will be~~ is sent to affected taxing districts, urban renewal agencies, and to any auditor(s) and assessor(s) of the involved county(ies). (3-31-22)( )

**08. One Uniform System.** The Tax Commission will prepare one (1) uniform system of tax code area numbers and maps which shall be used by each county ~~for property tax purposes~~. (3-31-22)( )

**09. Tax Code Areas.** The Tax Commission shall create a separate, unique number for each tax code area. If any area annexed to an existing ~~RAA revenue allocation area~~ includes a taxing district with any fund ~~levying prior to January 1, 2008, and continuing to levy but~~ which is not to be used to generate funds to be distributed to an urban renewal agency, the boundaries of the area added to the existing ~~RAA revenue allocation area~~ shall constitute a separate tax code area. ~~Only the State Tax Commission shall initiate or change a tax code area number.~~ (3-31-22)( )

**10. Furnished By The Tax Commission.** ( )

a. Annually, the Tax Commission will post the following documents on the Tax Commission's website: ( )

i. Updated tax code area maps; ( )

ii. Updated taxing district maps; ( )

iii. Updated ~~urban renewal~~ revenue allocation area maps; and (3-31-22)( )

iv. Documentation of changes related to the above maps. ( )

b. ~~This information is available to all parties.~~ Upon specific request, the Tax Commission will furnish without charge, one (1) hardcopy set of the above documents to each appropriate assessor, recorder, treasurer, and entity with operating property assessed by the Tax Commission. There shall be a charge for all other hardcopy maps. (3-31-22)( )

**226. -- 229. (RESERVED)**

**230. EXTENSIONS OF STATUTORY DEADLINES FOR DISASTER RELIEF ~~(RULE 230)~~.**  
Section 63-220, Idaho Code

**01. Application by County Officials.** A county official ~~who, because of any extension of time authorized by Section 63-220, Idaho Code, is unable to comply with a statutory deadline imposed in Title 63, Idaho Code, may~~ will apply for an extension in writing to the Tax Commission ~~for a reasonable delay, not to exceed sixty (60) days, of any such act.~~ (3-31-22)

**02. Contents of Application.** The application ~~will be submitted prior to~~ before the statutory deadline, in regard to which the approval of delay is sought and the application will include the following: (3-31-22)( )

a. A description of the nature of the relief granted, or expected to be granted, to taxpayers pursuant to Section 63-220(1), Idaho Code, by the Board of County Commissioners; ~~and~~ (3-31-22)(\_\_\_\_)

b. Identification of any statutory deadline ~~in regard to which the delay is sought; and germane to the requested extension;~~ (3-31-22)(\_\_\_\_)

c. The date by which the official making the application expects to accomplish the action ~~in regard to which the delay is sought~~ specified in the extension application; and (3-31-22)(\_\_\_\_)

d. A request that the Tax Commission approve the delay sought. (3-31-22)(\_\_\_\_)

~~032.~~ **Procedure.** Within five (5) working days of receipt of the request, the Tax Commission will respond in writing to the official requesting the delay. The Tax Commission will approve any request for an extension that complies with ~~Subsections 230.01 and 230.02 of~~ this rule. (3-31-22)(\_\_\_\_)

231. -- 303. (RESERVED)

304. **MANUFACTURED HOME DESIGNATED AS REAL PROPERTY** ~~(RULE 304).~~  
Sections 63-304, 63-305, Idaho Code

~~01. Statement of Intent to Declare (SID). To declare a manufactured home real property, the homeowner will complete a "Statement of Intent to Declare," SID form, as prescribed by the Tax Commission.~~ (3-31-22)(\_\_\_\_)

~~a. All information and signatures requested on the form will be provided prior to recordation.~~ (3-31-22)

~~b. The homeowner will record the completed form.~~ (3-31-22)

~~c. The homeowner will provide the assessor a copy of the recorded SID form and the title or Manufacturer's Statement of Origin (MSO). If proof of ownership is being provided through the MSO, the buyer's purchase agreement will be accepted by the assessor pending receipt of the MSO. For the purpose of this rule, the Manufacturer's Statement of Origin and Manufacturer's Certificate of Origin are synonymous.~~ (3-31-22)

~~da. For new manufactured homes, the assessor will verify that sales or use tax has been collected or will collect such tax. Any sales or use tax collected by the assessor will be is remitted to the Tax Commission.~~ (3-31-22)(\_\_\_\_)

~~eb. The assessor will forward a copy of the SID form and the title or Manufacturer's Statement of Origin (MSO) to the Idaho Transportation Department. The Idaho Transportation Department will cancel the title.~~ (3-31-22)(\_\_\_\_)

~~02. Reversal of Declaration of Manufactured Home as Real Property. To provide for the reversal of the declaration of the manufactured home as real property, the homeowner will complete the "Reversal of Declaration of Manufactured Home as Real Property" form as prescribed by the Tax Commission. The homeowner will submit this completed form to the assessor within the required time period.~~ (3-31-22)

~~a. The homeowner will also submit to the assessor a title report with the appropriate signatures of consent attached and will make application for a title to the manufactured home.~~ (3-31-22)

~~b. The assessor will transmit to the Idaho Transportation Department a copy of the completed reversal Reversal of Declaration of Manufactured Home as Real Property form, title report with appropriate signatures of consent, and the application for title to the manufactured home.~~ (3-31-22)(\_\_\_\_)

**03. Definition of Permanently Affixed.** In the year any manufactured home is to be declared to be real property, permanently affixed means complying with the Idaho Manufactured Home Installation Standard as adopted

by IDAPA 07.03.12, “Rules Governing Manufactured Home Installations,” Section 004. ( )

**04. Status of Manufactured Housing Previously Declared Real.** All manufactured housing upon which a “non-revocable option to declare the mobile home as real property” or SID was correctly completed and properly recorded and filed ~~will be is~~ treated as real property until such time as a reversal (as provided for in Section 63-305, Idaho Code, and this rule) is correctly completed and properly recorded and filed. This status as real property is based on all criteria existing when said manufactured housing was originally declared real property. This property must be treated as real property and considered “permanently affixed” without any need to be retrofitted to comply with subsequent changes to the requirements for “permanently affixed,” including changes to the Idaho Manufactured Home Installation Standard as adopted by IDAPA 07.03.12, “Rules Governing Manufactured Home Installations,” Section 004, that occur after the manufactured home was originally declared real property. (3-31-22)( )

**305. -- 311. (RESERVED)**

**312. PARTIAL YEAR ASSESSMENT OF REAL AND PERSONAL PROPERTY (RULE 312).**  
Sections 63-311, 63-602Y, Idaho Code

~~**01. Quarterly Assessment.** For each partial year assessment of any non-transient personal property, the assessment will comply with the quarterly schedules provided in Sections 63-311 and 63-602Y, Idaho Code. (3-31-22)~~

~~**02. Change of Status.** The real or personal property that has a change of status as described in Section 63-602Y, Idaho Code, includes exempt governmental property. Such property of the United States, this state and its instrumentalities, including counties, cities, urban renewal agencies, school districts, and other taxing districts, that is transferred to a non-exempt owner or otherwise ceases to qualify for a property tax exemption is to be assessed as described in Section 63-602Y, Idaho Code. (3-31-22)( )~~

~~**03. Cross Reference.** The partial year assessment of any non-transient personal property will comply with the Idaho Supreme Court decision in *Xerox Corporation v. Ada County Assessor*, 101 Idaho 138, 609 P.2d 1129 (1980). When assessing all non-transient personal property, each assessor should be aware of the following quotation from this decision: “Where the county undertakes to update its initial (personal property) declarations during the course of the tax year, it cannot increase a taxpayer’s tax burden to reflect the taxpayer’s acquisition of non-exempt property without decreasing that tax burden to reflect the fact that property reported by the taxpayer in an earlier declaration was no longer subject to the county’s ad valorem tax.” (Clarification added.) **Partial year assessments. If the assessor is notified of taxable personal property entering the county after the lien date, the assessor may place the property on the subsequent or missed property roll. Consequently, if the assessor is notified that previously reported taxable personal property is no longer subject to property tax prior to the end of the calendar year, the assessor will adjust the subsequent or missed property roll accordingly. See Idaho Supreme Court decision in *Xerox Corporation v. Ada County Assessor*, 101 Idaho 138, 609 P.2d 1129 (1980).** (3-31-22)( )~~

~~**04. Effective Date.** In the interest of addressing all property transfers made from the public sector to private ownership within the same year (2019) in a consistent manner, as per the proration schedule in Section 63-602Y, Idaho Code, the effective date for “Rule 312” is to be January 1, 2019. (3-31-22)~~

**313. ASSESSMENT OF TRANSIENT PERSONAL PROPERTY (RULE 313). (RESERVED)**  
Sections 63-213, 63-313, 63-602KK, Idaho Code

~~**01. Definitions.** The following definitions apply for the assessment of transient personal property. (3-31-22)~~

~~**a. Home County.** Home county is identified in Section 63-313, Idaho Code, as the county selected by the owner of any transient personal property as that county where that transient personal property is usually kept. That county selected by the owner will be a county in the state of Idaho. (3-31-22)~~

~~**b. Periods of Thirty (30) Days or More.** Periods of thirty (30) days or more mean increments of no less than thirty (30) consecutive, uninterrupted days, during which any transient personal property is located in any one (1) county. For any period of less than thirty (30) days, the property owner will report the transient personal~~



~~property as being in the home county. (3-31-22)~~

~~e. Prorated Assessment. Prorated assessment means the ratio of the number of days, exceeding twenty nine (29), to three hundred sixty five (365) days multiplied by the total market value of the transient personal property. For additional clarification, refer to the following examples. (3-31-22)~~

~~i. If located in a second Idaho county (not the home county) for twenty nine (29) consecutive, uninterrupted days and in the home county for the remainder of the year, the transient personal property should be assessed for the total market value in the home county. (3-31-22)~~

~~ii. If located in a second Idaho county (not the home county) for fifty nine (59) consecutive, uninterrupted days and in the home county for the remainder of the year, the transient personal property should be assessed for fifty nine/three hundred sixty five (59/365) of the total market value in the second county and for three hundred six/three hundred sixty five (306/365) of the total market value in the home county. (3-31-22)~~

~~iii. If located in a second Idaho county (not the home county) for thirty one (31) consecutive, uninterrupted days, in a third Idaho county (not the home county) for fifty nine (59) consecutive, uninterrupted days, and in the home county for the remainder of the year, the transient personal property should be assessed for thirty one/three hundred sixty five (31/365) of the total market value in the second county, fifty nine/three hundred sixty five (59/365) of the total market value in the third county, and two hundred seventy five/three hundred sixty five (275/365) of the total market value in the home county. (3-31-22)~~

~~iv. If located in a second Idaho county (not the home county) for twenty nine (29) consecutive, uninterrupted days and later in that same county for twenty nine (29) consecutive, uninterrupted days and in the home county for the remainder of the year, the transient personal property should be assessed for the total market value in the home county. (3-31-22)~~

~~v. If located in a second Idaho county (not the home county) for fifty nine (59) consecutive, uninterrupted days, outside the state of Idaho for any thirty five (35) days and taxed in the other state, and in the home county for the remainder of the year, the transient personal property should be assessed for fifty nine/three hundred sixty five (59/365) of the value in the second county and for two hundred seventy one/three hundred sixty five (271/365) of the total market value in the home county. However, if the property in this example that was outside the state of Idaho for thirty five (35) days was not taxed in the other state, then the time should be counted in the home county, and the property therefore should be assessed for three hundred six/three hundred sixty five (306/365) of the total market value in the home county. (3-31-22)~~

~~d. Transient Personal Property. Transient personal property is defined in Section 63-201, Idaho Code. (3-31-22)~~

~~02. Overassessment Prohibited. Section 63-213, Idaho Code, prohibits the assessment of any property in any one (1) county for the same period of time that property has been assessed in another county. The sum of the assessments of transient personal property in the home county and each other county where the property has been located will not exceed the market value of the property. (3-31-22)~~

~~03. Non-taxable Transient Personal Property. (3-31-22)~~

~~a. Transient Personal Property in Transit. Under Subsection 63-313(4), Idaho Code, any transient personal property only in transit through the home county or any other county and not remaining in any county for the purpose of use is not subject to property taxation. (3-31-22)~~

~~b. Sold Transient Personal Property on Which Taxes Have Been Paid. Under Subsection 63-313(4), Idaho Code, any transient personal property, which was sold by the owner in the home county and upon which the full current year's property taxes were paid, is not subject to property taxation for the current year in any other county regardless of whether that property is to be used in or only in transit through any other county. (3-31-22)~~

~~e. Qualified Investment Exemption. For information and directions relating to the qualified investment exemption, see Rule 988 of these rules. (3-31-22)~~

**04. Exempt Transient Personal Property.** (3-31-22)

~~a. Section 63-602KK, Idaho Code, when applicable provides for exemption of each eligible taxpayer's personal property to the extent of one hundred thousand dollars (\$100,000) within each county. The limit on the exemption will apply to the sum of the taxpayer's non-transient personal property and transient personal property. Prior to applying the exemption, transient personal property will be allocated among the counties based on the prorated value as provided in Subsection 63-313(2), Idaho Code. (3-31-22)~~

~~b. In cases where the taxpayer has transient personal property located in multiple places within the county, the taxpayer may elect the location of the property to which the exemption will apply. Should the taxpayer not make an election as to where to apply the exemption, the county will have discretion regarding the property to which the exemption will apply. (3-31-22)~~

**314. COUNTY VALUATION PROGRAM TO BE CARRIED ON BY ASSESSOR (RULE 314).**

Sections 63-314, 63-316, Idaho Code

**01. Definitions.** ( )

~~a. Continuing Program of Valuation. "Continuing program of valuation" means the program by which each assessor completes the assessment of all taxable properties each year. (3-31-22)( )~~

~~b. Field Inspection. The "field inspection" will include an observation of the physical attributes of all structures which significantly contribute to the property value, the visible land amenities, and a notation of any other factors which may influence the market value of any improvements. (3-31-22)( )~~

~~c. Index. "Index" refers to any annual adjustment or trending factor applied to existing assessed values to reflect current market value. Ratio studies or other market analyses can be used to develop indexes based on property type, location, size, age or other characteristics. (3-31-22)( )~~

~~d. Prediction of Market Value. As used in Section 63-314, Idaho Code, "prediction of market value" means an estimate of market value. (3-31-22)( )~~

~~e. Category to be Assessed at Current Market Value. The level of assessment of each category will be ~~is~~ considered ~~to be~~ current market value unless there is reasonable statistical certainty that the category is not equalized pursuant to Section 63-109, Idaho Code, and Rule 131. (3-31-22)( )~~

**02. Plan for Continuing Program of Valuation.** The plan for continuing program of valuation will include: ( )

~~a. General Contents. A parcel count by category, the number of parcels to be appraised each year, maps that show each of the market areas, an analysis of staff requirements, a budget analysis that provides adequate funding for labor costs, capital and supply costs, travel and education costs and the method of program evaluation. (3-31-22)( )~~

~~b. Market Data Bank. A market data bank including ~~es a~~ collection, verification and analysis of sales, income and expense data, building cost information, and application of this information to estimate market value. To mail assessment notices by the first Monday in June as required by Section 63-308, Idaho Code, assessors should include income and expense data submitted by property owners by the first Monday in April. Income and expense data for low-income housing properties receiving tax credits under Section 42 of the Internal Revenue Code includes actual rents, the monetary benefit of income tax credits, and expenses. (3-31-22)( )~~

~~c. Maps. Maps prepared in accordance with Section 63-209, Idaho Code, which identify characteristics of each geographic area. (3-31-22)( )~~

~~d. Property Record. A property record for each parcel, complete with the assigned secondary category and property characteristics necessary for an estimate of the current market value. Such characteristics may include~~

data elements as described in the International Association of Assessing Officers (IAAO) Standard on Mass Appraisal of Real Property and the IAAO Standard on Digital Cadastral Maps and Parcel Identifiers. Common elements identified in these standards include: (3-31-22)( )

- i. Date of most current physical review; ( )
- ii. Significant improvements, buildings and structures; ( )
- iii. Photographs of significant improvements; ( )
- iv. Sketches and/or blue prints of significant improvements; ( )
- v. Location data, such as market area, neighborhood, site amenities and external nuisances; ( )
- vi. Year built, effective age and/or condition of significant improvements- and (3-31-22)( )
- vii. Land size or diagram of all taxable parcels within the county. ( )

**e.** ~~Date plan is submitted.~~ The plan must be submitted to the Tax Commission on or before the first Monday of February in 2017, and every fifth year thereafter. (3-31-22)( )

**f.** ~~Request for extension.~~ As provided in Section 63-314, Idaho Code, a county may request an extension to the current five (5) year county valuation plan. (3-31-22)( )

i. ~~Amended Plan.~~ Any request for an extension must include an amended plan incorporating an inventory of the parcels to be appraised during the period of the approved extension. This inventory will constitute the schedule of required appraisals for the initial year or years of the subsequent five (5) year valuation program. Parcels appraised during the extension ~~will be~~ are considered appraised during both the current and subsequent five (5) year plan valuation program periods, maintaining the same five (5) year cycle for all counties. (3-31-22)( )

ii. ~~Approval of the Extension and Amended Plan.~~ A county ~~will be~~ is notified of the Tax Commission's decision regarding the granting of an extension as provided in Section 63-314, Idaho Code, within thirty (30) days of receipt of the written request for the extension when accompanied by an amended plan. (3-31-22)( )

iii. ~~Approval of the Amended Plan.~~ The Tax Commission's approval of any extension will specify timing and nature of progress reports. (3-31-22)( )

iv. ~~Voiding of the Extension.~~ The Tax Commission can void an extension unilaterally. (3-31-22)( )

**03. Field Inspections.** The methods of observation of the physical attributes of property as described in the International Association of Assessing Officers (IAAO) "Standard on Mass Appraisal of Real Property" referenced in Rule 003 of these rules should be followed to the extent that resources are available. This includes the use of aerial photographs and other digital imaging technology tools, which may be used to supplement, but not replace physical inspections. ( )

**04. Testing for Current Market Value.** Assessed values ~~will be~~ are tested annually by the Tax Commission as described in Section 63-109, Idaho Code, and Rule 131 of these rules to determine whether the level of assessment reflects "current market value." (3-31-22)( )

**315. USE OF RATIO STUDY TO EQUALIZE BOISE SCHOOL DISTRICT (RULE 315).**  
Sections 63-315, 33-802(6), 50-2903, Idaho Code

**01. Procedures for Boise School District Ratio Studies.** The Boise School District ratio study ~~conducted by the Tax Commission to comply with the requirements of Section 63-315, Idaho Code, will be~~ is conducted in accordance with the "Standard on Ratio Studies" referenced in Rule 003 of these rules. ~~The following~~

~~specific procedures will be used.~~

~~(3-31-22)( )~~

a. Information on property sales, which meet the requirements of arm's length ~~and~~ market value sales, ~~will be obtained and is~~ assembled into samples representing ~~various primary categories, described in Subsections 130.02 through 130.06 of these rules, and secondary categories, described in Rules 510, 511, and 512 of these rules,~~ ~~within~~ designations defined in Subsection 315.02 of this rule in the Boise School District. Except when sales or appraisals must be added or deleted to improve representativeness, sales used ~~will be~~ are those occurring within the Boise School District between October 1 of the year preceding the year for which adjusted market value is to be computed and September 30 of the next year ~~for which adjusted market value is to be computed~~. Each sale price is ~~to be~~ adjusted for time and compared to market value for assessment purposes for the year for which adjusted market value is to be computed, ~~to compute ratios to be analyzed~~. The Tax Commission may use sales from extended time periods and may add appraisals when data is lacking. ~~The Tax Commission may delete sales when necessary to improve representativeness.~~

~~(3-31-22)( )~~

b. ~~A ratio will be determined for each sale by dividing t~~The market value for assessment purposes of the sale or appraised property is divided by the adjusted sale price or appraised value to determine the ratio.

~~(3-31-22)( )~~

c. A statistical analysis is ~~to be~~ conducted for the sales and ~~any~~ appraisals in each property designation described in Subsection 315.02 of this rule in the Boise School District and appropriate measures of central tendency, uniformity, reliability, and normality computed.

~~(3-31-22)( )~~

d. ~~With the exception of any property designations with extended time frames or added appraisals, i~~f fewer than five (5) sales and appraisals are available, no adjustment to the net taxable value of the designation ~~will be~~ is made.

~~(3-31-22)( )~~

e. ~~If there are five (5) or more sales and appraisals and~~ it is determined with reasonable statistical certainty that the property designation is not ~~already~~ at market value for assessment purposes, an adjusted market value ~~will be~~ is computed for the Boise School District by dividing the net taxable value for the year for which adjusted market value is to be determined by the appropriate ratio derived from the ratio study. The appropriate ratio to be used ~~will be~~ is the weighted mean ratio calculated from the sample for each designation, unless it can be clearly demonstrated that this statistic has been distorted by non-representative ratios. In this case the median may be substituted.

~~(3-31-22)( )~~

f. Within the Boise School District, adjusted market value ~~or taxable value~~ for each primary and each applicable secondary category of real, personal and operating property ~~will be~~ is summed to produce the ~~total~~ adjusted market value for the Boise School District. The Boise School District net taxable value ~~will then be~~ is divided by this adjusted market value to produce the overall ratio of assessment in the Boise School District. ~~Statewide totals are to be calculated by compiling county totals.~~

~~(3-31-22)( )~~

g. Urban renewal increment values ~~will be~~ are not ~~be~~ included in the net taxable value ~~or the adjusted market value~~ for the Boise School District. Upon receipt of an urban renewal agency's resolution recommending the adoption of an ordinance for termination of a revenue allocation area by December 31 of a given year, the increment value in the immediate prior year ~~will be~~ is included in the net taxable value ~~and the adjusted market value~~ for the Boise School District. If the resolution is received prior to the first Monday in April, the ~~actual net taxable~~ value for the immediate prior year ~~will be~~ is adjusted by adding the increment value. If any ratio study-based adjustments are warranted, ~~as provided in this rule,~~ they ~~applies~~ apply to the actual value including the increment value. If the resolution is received on or after the first Monday in April, but by September 1, a corrected certification of actual and adjusted values ~~will be~~ is provided as soon as practical.

~~(3-31-22)( )~~

h. "Reasonable statistical certainty," that the property designation in question is not at market value for assessment purposes, ~~is required. Such certainty~~ is tested using ninety percent (90%) confidence intervals about the weighted mean or median ratios. If the appropriate confidence interval includes ninety-five percent (95%) or one hundred five percent (105%), there is not "reasonable statistical certainty" that the property designation is not at market value for assessment purposes.

~~(3-31-22)( )~~

i. ~~Primary and s~~Secondary categories ~~subject to adjustment following the procedure outlined in this~~

~~rule and ratio study are assigned to~~ designations ~~from which measures of central tendency used for adjustments will be derived are as follows:~~

<b>Secondary Categories</b>	<b>Primary Categories</b>	<b>Ratio Study Designations</b>
12, 15, 18, or 20	Vacant Residential Land	Residential
10, 12, 15, 18, 20, 26, 31, 34, 37, 40, 41, 46, 47, 48, or 50	Improved Residential Property	Residential
47, 49, or 65	Manufactured Home on Leased Land	Residential
11, 13, 14, 16, 17, 21, or 22	Vacant Commercial or Industrial Land	Commercial
11, 13, 14, 16, 17, 21, 22, 27, 33, 35, 36, 38, 39, 42, 43, or 51	Improved Commercial or Industrial Property	Commercial

(3-31-22)( )

~~i. Secondary categories 10, 12, 15, 18, 20, 26, 31, 34, 37, 40, 41, 46, 47, 48, 65, or 50 are residential;~~ ( )

~~ii. Secondary categories 11, 13, 14, 16, 17, 21, 22, 27, 33, 35, 36, 38, 39, 42, 43, or 51 are commercial.~~ ( )

~~j. For all secondary categories, described in Rule 510, 511, or 512 of these rules but not contained in the list in Paragraph 315.01.i. of this rule, adjusted market value will equal taxable value.~~ ( )

~~k. "Appraisal" or "appraised value" refers to any Tax Commission provided independently conducted property appraisal.~~ (3-31-22)( )

**02. Use of Property Designations.** In computing the ratio for the Boise School District, the Tax Commission will designate property as residential or commercial and will assign ~~appropriate primary categories, described in Subsections 130.02 through 130.06 of these rules, and secondary categories, described in Rules 510, 511, and 512 of these rules;~~ sales and appraisals to these designations as shown in Paragraph 315.01.i. of this rule. For the Boise School District, adjusted market value ~~will be~~ is computed by dividing the appropriate ratio ascertained for each of these designations into the sum of the net taxable values for each ~~primary and~~ secondary category assigned to a designation. Except as provided in Subsection 315.06~~5~~ of this rule, for the net taxable value in any secondary category to be included in said sum, at least one (1) observation (sale or appraisal) from that secondary category must be present in the ratio study. If the ratio for any given designation in the Boise School District indicates that the market value for assessment purposes cannot be determined with reasonable statistical certainty to differ from statutorily required market value, the net taxable value shown on the Boise School District abstract(s) required pursuant to Subsection 315.04 of this rule for each of the secondary categories included in that designation ~~will be~~ is the adjusted market value for said designation ~~for said school district.~~ (3-31-22)( )

**03. Assessor to Identify ~~Boise School Districts~~ Location.** Each county assessor will identify ~~for the Tax Commission~~ which sales submitted for the ratio study are located within the Boise School District. (3-31-22)( )

**04. Abstracts of Value for the Boise School District.** Each applicable county auditor will provide to the Tax Commission abstracts of the net taxable value of all property within the portion of the Boise School District in that county. These abstracts ~~will be~~ are submitted in the same manner and at the same time as provided for county abstracts of value. (3-31-22)( )

**05. ~~Urban Renewal Increment and Exemption to be Subtracted.~~** ~~The taxable value of each primary or secondary category within the Boise School District will not include the value that exceeds the value on the base~~

~~assessment roll in any urban renewal district pursuant to Chapter 29, Title 50, Idaho Code, and will not include the value of any property exempt from property tax.~~ (3-31-22)

**065. Exception from Requirement for at Least One Observation for Use of Secondary Category in Adjusted Value Determination.** ~~Properties identified as secondary categories 10 and 31 rarely sell separately from farms and therefore do not appear in any ratio study. However, the level of assessment typically is similar to that of other rural residential property, including property in secondary categories 12, 15, 34, and 37. For any ratio study where When there is an adjustment to be made to the assessed net taxable values in the residential designation, such adjustment applies to any assessed net taxable value in secondary category 10, provided there is at least one (1) observation (sale) of property identified in either secondary category 12 or 15. Such adjustment will also be applied to any assessed net taxable value in secondary category 31, provided there is at least one (1) observation (sale) of property identified in either secondary category 34 or 37.~~ (3-31-22)( )

**076. Certification of Values.** ~~The Tax Commission certifies values required to be certified to the county clerk by the first Monday in April each year under Section 63-315, Idaho Code, will be published by publication on the Tax Commission's web site or provided in an alternate format on request by the first Monday in April each year to satisfy this required certification.~~ (3-31-22)( )

**087. Cross References.** ~~The primary categories are described in Subsections 130.02 through 130.06 of these Rules, and the secondary categories are described in Sec R rules 130, 510, 511, and 512 of these rules. The requirement to add increment value following dissolution of an urban renewal revenue allocation area is found in Section 33-802(6), Idaho Code.~~ (3-31-22)( )

**316. COMPLIANCE OF CONTINUING VALUATION PROGRAM ~~(RULE 316).~~**  
Sections 63-314, 63-316, Idaho Code

**01. Definitions.** ( )

**a. ~~Continuing Appraisal.~~** ~~“Continuing appraisal” means the program by which each assessor completes the assessment of all taxable properties each year. This term includes any appraising or indexing done to accomplish the continuing program of valuation as defined in Rule 314 of these rules.~~ (3-31-22)( )

**b. ~~Monitor.~~** ~~“Monitor” means collecting data and compiling statistical reports that show the number and percentage of parcels physically inspected at scheduled intervals within each year of each five (5) year appraisal cycle. The term “monitor” also includes an examination of and summary report of compliance with the most recently completed ratio study under Section 63-109, Idaho Code, and Rule 131 of these rules showing the status of appraisal and indexing to achieve market value.~~ (3-31-22)( )

**c. ~~Progress Reports.~~** ~~“Progress reports” mean any informational or statistical report compiled and distributed by the Tax Commission regarding the physical appraisal progress of a county.~~ (3-31-22)( )

**d. ~~Appraisal Cycle.~~** ~~“Appraisal cycle” means consecutive five (5) year periods beginning with appraisals completed for the 1998 property roll, as established by the requirement in Section 63-314, Idaho Code.~~ (3-31-22)( )

**e. ~~Remediation Plan.~~** ~~“Remediation plan” means, a written statement of the actions that will be taken by the county not in compliance with the requirements of Section 63-314, Idaho Code, plans to bring the its continuing program of valuation into compliance with said Section 63-314, Idaho Code.~~ (3-31-22)( )

**02. Monitoring Procedure.** ~~The Tax Commission will monitor compliance with the continuing program of valuation in each county no less than annually. The Tax Commission will monitor the completion of the appraisal of not less than fifteen percent (15%) of all parcels by the end of the first year of the appraisal cycle, not less than thirty five percent (35%) by the end of the second year, not less than fifty five percent (55%) by the end of the third year, not less than seventy five percent (75%) by the end of the fourth year, and not less than one hundred percent (100%) by the end of the fifth year in order that all parcels are appraised not less than every five (5) years. As a result of the monitoring process, the Tax Commission will and prepare and distribute progress reports to each county assessor at the end of each monitoring period. Each monitoring period will be conducted in the following~~

manner:

(3-31-22)( )

a. The Tax Commission will compile a progress report each July. ~~The Tax Commission will use this progress report in each county~~ to determine compliance with Section 63-314, Idaho Code. This report will consist of an analysis of the county's progress within the current appraisal cycle ~~as well as~~ and a summary report of the most recently completed ratio study showing the status of appraisal and indexing to achieve market value. The Tax State Commission will notify each county assessor on or before August 15 each year of the current status of the continuing program of valuation progress and any necessary corrective action. ~~The Tax Commission will~~ and notify the board of county commissioners that this report ~~has been~~ was provided to the county assessor. (3-31-22)( )

b. Upon receipt of a written request from the county assessor, the Tax Commission will complete and distribute a six (6) month progress report in January. This January report will show the total parcels in the county, the number of parcels that need to be physically inspected for the current year's assessment, a summary report of the most recently completed ratio study, and the number of parcels upon which physical inspections were completed during the preceding six (6) months. The Tax Commission will ~~distribute any January progress report only to inform the county assessor of the status of the continuing program of valuation and will~~ not use ~~the data gathered for~~ this report to determine compliance with Section 63-314, Idaho Code. ~~The Tax Commission~~ but will notify the board of county commissioners that this report ~~has been~~ was provided ~~to the county assessor~~. (3-31-22)( )

**03. Remediation Plans.** ~~If the results of any July report show that a county has~~ does not ~~achieved the adequate appraisal of the required percent of the parcels, as stated in Subsection 316.02 of this rule,~~ meet the requirements of subsection (1) of 63-314, Idaho Code, according to the July progress report, the assessor and board of county commissioners will ~~be required to~~ submit to the Tax Commission, a remediation plan ~~that demonstrates explaining how the county will achieve compliance will be achieved. The remediation plan will be submitted to the Tax Commission~~ on or before September 15. The Tax Commission will ~~determine whether~~ approve the plan ~~is acceptable~~ on or before October 1. ~~Once a remediation plan has been approved, and the continuing valuation program of the county will be considered in compliance so long as the county meets the terms of the remediation plan. The Tax Commission will monitor progress toward successful completion of any remediation plan at intervals scheduled with the county assessor.~~ (3-31-22)( )

**04. Tax Commission To Ensure Corrective Action.**

(3-31-22)( )

a. During the first four (4) years of any appraisal cycle, if any July progress report shows that a county assessor ~~has did~~ not ~~achieved the adequate appraisal of the required percent of parcels, as stated in Subsection 316.02 and implementation of the subsequent remediation plan does not achieve the required percent or the next July progress report shows the number of completed appraisals continues to be less than the required percent,~~ meet the requirements of a remediation plan the Tax Commission will ~~begin proceedings to~~ ensure corrective action is taken ~~up to and including taking and may take~~ exclusive and complete control of the continuing program of valuation ~~as provided for in pursuant to~~ Section 63-316, Idaho Code. (3-31-22)( )

b. If, at the end of any appraisal cycle a county has not achieved adequate appraisal of all parcels, the Tax Commission may ~~begin proceedings to~~ ensure corrective action is taken, up to and including taking and may take exclusive and complete control of the continuing program of valuation ~~as provided for in pursuant to~~ Section 63-316, Idaho Code. ~~If, at the end of an appraisal cycle, a county has not met the requirements of Section 63-314, Idaho Code, and no extension has been granted pursuant to the provisions of Section 63-316(6), Idaho Code, the county plan for the next appraisal cycle submitted to the Tax Commission must include provision for field inspection of those parcels not field inspected by the end of the expired appraisal cycle and an additional field inspection of the same parcels for the current plan for the continuing program of valuation.~~ (3-31-22)( )

**05. Compliance Procedure Examples.**

( )

a. Example 1: The following chart outlines what will occur if a county assessor fails to complete the appraisal of the required number of parcels for 2003 and subsequently fails to complete the appraisal of the required number of parcels for 2004. See Compliance Procedure Examples at <https://tax.idaho.gov>.

January 2003 (if requested) - Informational Progress Report

July 2003	-	First Compliance Progress Report
Compliance	-	No Action
Non-compliance	-	Remediation Plan and Monitoring
January 2004 (if requested)	-	Informational Progress Report
July 2004	-	Second Compliance Progress Report
Compliance	-	No Action
Non-compliance	-	Enforcement of Section 63-316, Idaho Code (Tax Commission may start proceedings to take exclusive and complete control of the program.)

(3-31-22)( )

b. ~~Example 2: The following chart outlines what will occur if a county assessor successfully completes the appraisal of the required number of parcels for 2003, 2004, and 2005 but fails to complete the appraisal of the required number of parcels for 2006 and subsequently fails to complete the appraisal of the required number of parcels for 2007.~~ See [Informational Progress Report Example at https://tax.idaho.gov](https://tax.idaho.gov).

January 2003 (if requested)	-	Informational Progress Report
July 2003	-	First Compliance Progress Report
Compliance	-	No Action
January 2004 (if requested)	-	Second Informational Progress Report
July 2004	-	Second Compliance Progress Report
Compliance	-	No Action
January 2005 (if requested)	-	Informational Progress Report
Compliance	-	No Action
July 2005	-	Third Compliance Progress Report
Compliance	-	No Action
January 2006 (if requested)	-	Informational Progress Report
July 2006	-	Fourth Compliance Progress Report
Compliance	-	No Action
Non-compliance	-	Remediation Plan and Monitoring
January 2007 (if requested)	-	Informational Progress Report
July 2007	-	Fifth Compliance Progress Report
Compliance	-	No Action
Non-compliance	-	Enforcement of Section 63-316, Idaho Code (Tax Commission may start proceedings to take exclusive and complete control of the program.)

(3-31-22)( )

**317. OCCUPANCY TAX ON NEWLY CONSTRUCTED IMPROVEMENTS ON REAL PROPERTY (RULE 317).**



Section 63-317, Idaho Code

~~01. Property Subject to Occupancy Tax. Excluding additions to existing improvements, the occupancy tax shall apply to improvements upon real property, whether under the same or different ownership. The occupancy tax shall also apply to new manufactured housing, as defined in Section 63-317, Idaho Code, excluding additions to existing manufactured housing.~~ (3-31-22)

**021. Prorated Market Value.** The market value for occupancy tax purposes shall be the full market value on January 1 and shall be prorated at least monthly from the occupancy date to the end of the year. ( )

**032. Notice of Appraisal.** When notifying each owner of the appraisal, the county assessor shall include at a minimum the full market value before any exemptions and before any prorating of the value, the length of time subject to the occupancy tax, and the prorated value. ( )

~~043. Examples for Calculation of Value Less Homestead Exemption (HO). The following examples show the procedure for the calculation of the taxable value subject to the occupancy tax less the homestead exemption (HO):~~ (3-31-22)

~~a. See Example for prorated market value exceeding maximum amount of the homestead exemption for improvements subject to the occupancy tax beginning July 1, 2016 at <https://tax.idaho.gov>.~~

Full Market Value of Home	- \$300,000
Prorated Market Value for 11 Month Occupancy	- $\$300,000 \times 11/12 = \$275,000$
Taxable Value	- $\$275,000 - \$100,000 (HO) = \$175,000$

(3-31-22)( )

~~b. Example for prorated market value resulting in less than the maximum amount of the homestead exemption.~~

Full Market Value of Home	- \$120,000
Prorated Market Value for 3 Month Occupancy	- $\$120,000 \times 3/12 = \$30,000$
Taxable Value	- $\$30,000 - \$15,000 (HO) = \$15,000$

(3-31-22)

**054. Market Value.** The market value for occupancy tax purposes ~~shall be~~ is entered on an occupancy tax valuation roll. Occupancy tax valuation ~~shall is~~ not be included in the assessed value of any taxing district, but occupancy tax ~~must be declared~~ is included in the certified budget. (3-31-22)( )

**065. Allocation to Urban Renewal Agencies.** Occupancy tax revenue shall be distributed to urban renewal agencies in the same manner as property taxes, except as provided in Paragraphs 317.06.a. and 06.b. of this rule. ( )

**a.** The portion of the occupancy tax raised for funds specified in Section 50-2908, Idaho Code, and Rule 804 of these rules must be distributed to the taxing districts levying property taxes for those funds and, therefore, must not be distributed to the urban renewal agency. ( )

**b.** For parcels within a newly formed revenue allocation area or within an area newly annexed to an existing revenue allocation area, occupancy tax for the tax year during which the formation or annexation took effect is not distributed to the urban renewal agency. ( )

~~07. Property Qualifying for the Homestead Exemption on Occupancy Value. When property is subject to occupancy tax, only the improvements shall be eligible for the homestead exemption found in Section 63-602G, Idaho Code. (3-31-22)~~

318. -- 403. (RESERVED)

404. OPERATOR'S STATEMENT -- CONTENTS ~~(RULE 404).~~  
Sections 63-401, 63-404, Idaho Code

**01. Filing Date for Operator's Statement.** ~~In the operator's statement, the number of miles of railroad track, electrical and telephone wire, pipeline, etc., must be reported to the hundredth mile in decimal form (0.00) in each taxing district or taxing authority and must be reported by the uniform tax code area method. All taxpayers required to file an operator's statement must file the statement with the Tax Commission by April 30 each year. The information in the statement must be reliable for preparing an estimate of market value. For each entity submitting a written request for an extension on or before April 30, the Tax Commission may grant an extension of the filing date until May 31. (3-31-22)( )~~

**02. Tax Code Area Maps.** By March 1 of each year, the Tax Commission will furnish to all entities having operating property within the state of Idaho, except private railcar fleets, a [web link to a list of all changes in tax code area boundary lines.](#) ~~In ease~~ If the Tax Commission receives corrections to any tax code area boundaries, these changes must be furnished by March 15. Every day that the tax code area map deadline is extended beyond March 1 allows for an automatic extension in the filing requirement, equal to the delay, for the portion of the operator's statement that includes [taxing district or taxing authority mileage](#) specific information ~~that is to be reported by tax code area as required in Subsection 404.013.a. of this rule. All other operator statement information, excluding the mileage as required in Sections 404.01 and 404.03 of this rule will still be required by April 30 as required in Section 404.06 of this rule.~~ The reporting entity will review the list of changes to identify any tax code areas, within which any of the entity's operating property is located. The reporting entity will report, under Subsection 404.013.a. of this rule based on these identified tax code areas. The Tax Commission will provide the tax code areas maps to the reporting entity as provided for in Rule 225 of these rules. (3-31-22)( )

**03. Reporting of Mileage.** ~~The following procedures apply for reporting mileage. (3-31-22)( )~~

**a.** ~~In the operator's statement, the number of miles of railroad track, electrical and telephone wire, pipeline, etc., must be reported to the hundredth mile in decimal form (0.00) in each taxing district or taxing authority and must be reported by the uniform tax code area method. ( )~~

**ab.** ~~Railroad Track Mileage. The railroad track mileage will be is reported by the name of the main line and branch lines with the track mileage for the main line and branch lines reported as Main Track Miles. Track miles consisting of passing track, yard switching, spurs, sidings, etc., will be are reported as Secondary Track Miles. (3-31-22)( )~~

**bc.** ~~Electric Power Line Mileage. The electric power companies will report electric power line mileage by transmission and distribution lines. The transmission lines are the lines at a primary source of supply to change the voltage or frequency of electricity for the purpose of its more efficient or convenient transmission; lines between a generating or receiving point and the entrance to a distribution center or wholesale point; and lines whose primary purpose is to augment, integrate, or tie together the sources of power supply. The distribution lines are the lines between the primary source of supply and of delivery to customers, which are not includable in transmission lines. Cooperative electrical associations may include lines designed to accommodate thirty-four thousand five hundred (34,500) volts or more as transmission or distribution lines. Transmission or distribution lines will be are reported by single linear wire mile. (3-31-22)( )~~

**ed.** ~~Telephone Wire Mileage. All telephone wire mileage companies will be reported on a single linear wire mile basis, and include any ground wires. (3-31-22)( )~~

**de.** ~~Natural Gas Pipeline and Gathering Line and Water Distribution Pipeline Mileage. Beginning January 1, 2013, all natural gas and water distribution companies will report pipeline and gathering line miles on a three (3) inch comparison basis. For example, a company with five (5) miles of six (6) inch pipe will report ten (10)~~

pipeline miles: five (5) times six (6) divided by three (3) equals ten (10) miles. (3-31-22)( )

~~ef.~~ Transmission ~~Pipeline Mileage. All transmission~~ pipeline companies will report pipeline miles on a one-inch (1") comparison basis. (3-31-22)( )

**04. Situs Property.** Situs property includes microwave stations and radio relay towers. This property also includes facilities, used for and in conjunction with thermal generation of electricity, constructed after January 1, 2004, and located in or within five (5) miles of an incorporated city. The investment in this property ~~will be~~ is reported in the tax code area(s), within which it is located. (3-31-22)( )

**05. Record of Property Ownership.** The following procedures apply for maintaining records of operating property ownership. ( )

~~a. STC Form R.~~ A record of each property owned, leased, or otherwise operated by each railroad, private railcar fleet or public utility ~~will be~~ is maintained by the Tax Commission, the appropriate railroad, private railcar fleet or public utility, and the appropriate county assessor's office. Each record ~~will be~~ is maintained on a form identified as STC Form R. The Tax Commission will send a copy of each STC Form R to the appropriate company and the appropriate county assessor's office. (3-31-22)( )

~~b. Identification of Operating Property and Non-operating Property.~~ On the STC Form R, the Tax Commission will identify which property is operating property and which property is non-operating property. (3-31-22)( )

~~c. Filing of Property Ownership by Railroad Companies.~~ Each railroad company will file the original railroad right-of-way maps with the Tax Commission. Each railroad will file an STC Form R, only, for property that is acquired, leased, or transferred between operating and non-operating status, or sold during the prior year. (3-31-22)( )

~~06. Filing Date for Operator's Statement.~~ By April 30 each year, each railroad, private railcar fleet, and or public utility operating in Idaho will file information pertinent to the entity's ownership and operation with the Tax Commission. This information must be reliable for preparing an estimate of market value. For each entity submitting a written request for an extension on or before April 30, the Tax Commission may grant an extension of the filing date until May 31. An automatic extension beyond April 30 may be granted as set out in Subsection 404.02 of this rule. Such automatic extension will apply only to the taxing district, taxing authority, and tax code area specific information contained in the operator's statement. (3-31-22)

~~07. Cross Reference.~~ For information relating to the exemption of certain intangible personal property, ~~see Sections 63-602L and 63-405, Idaho Code, and Rules 405 and 615 of these rules. For valuation, allocation, and apportionment information, see Section 63-405, Idaho Code, and Rule 405 of these rules.~~ (3-31-22)( )

**405. ASSESSMENT OF OPERATING PROPERTY (RULE 405).**  
Section 63-405, Idaho Code

**01. The Unit Method.** The unit method of valuation is preferred for valuing a railroad or public utility when the individual assets function collectively, are operated under one ownership and one management, are interdependent, and the property would be expected to trade in the marketplace as a unit. Under the unit method, the value of the tangible and intangible property is equal to the value of the going concern. The market value of the unit ~~will be~~ is referred to as the system value. For interstate property, allocation factors ~~will be~~ are used to determine what part of the system value is in Idaho. (3-31-22)( )

**02. Identify the Unit.** The unit includes all property used or useful to the operation of the system, property owned, used or leased by the business and the leased fee and leasehold interests. ~~Assess a~~ All title and interest in unit property ~~will be~~ is assessed to the owner, lessee or operating company. (3-31-22)( )

**03. Appraisal Approaches.** The three (3) approaches to value may be considered for all property. ( )

**04. Appraisal Procedures.** Market value ~~will be~~ is determined through procedures, methods, and techniques accepted by nationally recognized appraisal and valuation organizations. For operating property, the direct capitalization techniques or derivatives thereof will not be used in estimating value. (3-31-22)(    )

**05. The Cost Approach.** ~~For operating property,~~ The appraiser may consider replacement, reproduction, original or historical cost. (3-31-22)(    )

**a.** Contributions in aid of construction. ~~Contributions in aid of construction~~ are valued at zero in the cost approach. (3-31-22)(    )

**b.** Construction work in progress. ~~Construction work in progress~~ may be considered in the cost approach. (3-31-22)(    )

**c.** Obsolescence. The appraiser will attempt to measure obsolescence, if any exists. If obsolescence is found to exist, it may be considered in the cost approach. ( )

**06. The Income Approach.** ~~For operating property,~~ The income approach is based on the premise that value can be represented by the present worth of future benefits derived from the ownership, use or operation of the unit. The appraiser will consider yield capitalization in processing the income approach. (3-31-22)(    )

**07. The Market Approach.** In the market approach ~~for operating property,~~ the appraiser will consider the sales comparison approach or the stock and debt approach. (3-31-22)(    )

**08. Reconciliation.** Reconciliation, also called correlation, is an opinion regarding the weight that should be placed on each approach. The appropriate weight to be given each indicator is based on the appraiser's opinion of the inherent strengths and weaknesses of each approach and the data utilized. The appraisal report will disclose the weight given to the indicators. ( )

**09. Allocation.** Use readily available data from existing records to calculate the factors that are multiplied by the correlated system value to allocate that value to Idaho. ( )

**10. Situs Property Apportionment.** For situs property, as described in Subsection 404.04 of these rules, apportionment is based on physical location, meaning the taxable market value will not be apportioned based on mileage but only to the tax code area(s) within which said property is situs or physically located. (3-31-22)(    )

**11. Valuation of Rate-Regulated Electric Utility Property.** The methods set forth in this Rule will apply to the valuation of operating property of rate-regulated electric utility companies except to the extent any provision is inconsistent with the valuation criteria set forth in Section 63-205B, Idaho Code, in which case, the criteria in Section 63-205B, Idaho Code, will control. ( )

**12. Cross Reference.** ~~For reporting information,~~ See Sections 63-404 and 63-602L, Idaho Code, and Rules 404 and 615 of these rules. ~~For information relating to the exemption of certain intangible personal property, see Section 63-602L, Idaho Code, and Rule 615 of these rules.~~ (3-31-22)(    )

**406. ~~RULES PERTAINING TO MARKET VALUE OF OPERATING PROPERTY OF RATE REGULATED ELECTRIC UTILITY COMPANIES (RULE 406) (RESERVED)~~**  
Section 63-105(2), Section 63-205(1), Idaho Code

**01. ~~Valuation of Operating Property of Rate-Regulated Electric Utility Companies.~~** ~~The market value for assessment purposes of operating property of rate-regulated electric utility companies will be determined by the Tax Commission using statute, these rules as referenced in Rule 001 of these rules, any other applicable law, and the following:~~ (3-31-22)

**a. ~~Depending on the weighting placed on the income approach, as described in Subsection 406.01.d. of this rule, no more than twenty percent (20%) weight will be placed on the cost indicator when utilizing the Historic Cost-Less Depreciation (HCLD) method in the system value correlation.~~** (3-31-22)

~~b.~~ In the income approach, income to be capitalized will be normalized, utilizing the Gross Domestic Product Implicit Price Deflator found in Table 1.1.9 from the United States Department of Commerce, Bureau of Economic Analysis, by using an average of at least the previous four (4) years' net operating incomes and by adjusting each year's net operating income for unusual non-recurring items. (3-31-22)

~~e.~~ In the income approach, a market discount rate will be determined to which a flotation cost component of twenty hundredths of one percent (0.20%) will be added. (3-31-22)

~~d.~~ A weighting between eighty percent (80%) and one hundred percent (100%) will be placed on the income approach in the system value correlation. (3-31-22)

~~e.~~ Within the market approach, as prescribed in Rule 405 of these rules, a sales comparison approach may be used if reliable data is available and appropriate comparison adjustments can be made. No weight will be placed on a stock and debt approach in the system value correlation. (3-31-22)

~~f.~~ For rate regulated electric utility companies, the weightings prescribed in this rule will supersede any weightings in the system correlation prescribed in Subsection 405.08 of this rule. (3-31-22)

~~02. Accounting For Obsolescence.~~ Subsection 406.01.a. of this rule will be construed to mean that the use of no more than twenty percent (20%) weight placed on the cost indicator, when utilizing HCLD method to calculate the cost approach, accounts for any and all forms of depreciation, including any and all forms of obsolescence, and the appraiser will not consider any further obsolescence as provided for in Subsection 405.05 of these rules. (3-31-22)

**407. HEARING TO REVIEW OPERATING PROPERTY APPRAISALS ~~(RULE 407).~~**  
Section 63-407, Idaho Code

**01. Procedure Governed.** This rule will govern all practice and procedure before the Tax Commission sitting as a State Board of Equalization in hearings under Section 63-407, Idaho Code. Hearings are not contested cases under the Idaho Administrative Procedures Act. Hearings are open meetings under the Idaho open meetings law and all written materials are subject to Idaho public records law. The taxpayer may request that the ~~b~~EBoard of ~~e~~Equalization go into executive session to discuss confidential materials. (3-31-22)( )

**02. Liberal Construction.** These rules will be liberally construed to secure just, speedy and economical determination of all issues presented to the Tax Commission. For good cause the Tax Commission may permit deviation from these rules and the taxpayer may request a stipulated finding that would result in an appealable decision in lieu of a hearing before the ~~s~~State ~~b~~Board of ~~e~~Equalization. (3-31-22)( )

**03. Communication.** All notices and petitions required to be filed with the Tax Commission must be in writing. Each notice must identify the filing party, be signed by the filing party, be dated and give the filing party's mailing address and telephone number. The provisions of Section 63-217, Idaho Code, apply to the filing of documents with the Tax Commission. ( )

**04. Service by Tax Commission.** All notices and orders required to be served by the Tax Commission may be served by mail. Service will be complete when a true copy of the document, properly addressed and stamped, is deposited in the United States mail. ( )

**05. Notice to County Assessors.** When the calendar of hearings under Section 63-407, Idaho Code, is final, the Tax Commission will send a copy of this calendar to the assessor of each county. ( )

**06. Parties.** The following are parties to a hearing of the Tax Commission meeting as State Board of Equalization. (3-31-22)( )

**a.** Petitioner. A person petitioning for a hearing will be called the petitioner. ( )

**b.** Staff. The Tax Commission staff may appear as a party at the hearing and may be represented by one (1) or more Deputy Attorneys General assigned to the Tax Commission. ( )

c. Legal advisor to the Tax Commission. When sitting as a State Board of Equalization, the Tax Commission may obtain legal advice from a Deputy Attorney General who is not representing the Tax Commission staff. (3-31-22)( )

**07. Appearances and Practice.** The following apply for appearances and practice in a hearing. ( )

a. Rights of parties. At any hearing, both parties may appear, introduce evidence, ask questions through the presiding officer, make arguments, and generally participate in the conduct of the proceeding. ( )

b. Taking of appearances. The presiding officer conducting the hearing will require appearances to be stated and will see that both parties present are identified on the record. ( )

c. Representation of taxpayers. An individual may represent himself or herself or be represented by an attorney. A partnership may be represented by a partner, authorized employee or by an attorney. A corporation may be represented by an officer, authorized employee or by an attorney. ( )

**08. Pre-Hearing Conferences.** ( )

a. The Tax Commission may, upon notice to both parties, hold a pre-hearing conference for the following purposes: ( )

i. Formulating or simplifying the issues; ( )

ii. Obtaining admissions of fact and of documents which will avoid unnecessary proof; ( )

iii. Arranging for the exchange of proposed exhibits or prepared expert testimony; ( )

iv. Limiting the number of witnesses; ( )

v. Setting the hearing procedure, and including allocation of an amount of time for the hearing; and ( )

vi. Reviewing other matters to expedite the orderly conduct and disposition of the proceedings. ( )

vii. Allowing any continuance. ( )

b. Action taken. Any action taken at the conference and any agreement made by the parties concerned may be recorded and the Tax Commission may issue a pre-hearing order which will control the course of subsequent proceedings unless modified. ( )

c. Compromise and offers to compromise. Evidence of an offer or agreement to compromise the dispute and the conduct and statements made in compromise negotiations are not admissible at the hearing. ( )

**09. Hearings.** The following apply to the hearings. ( )

a. Request for hearing. A request for a hearing will be in writing and filed with the Tax Commission on or before ~~August 1~~ July 22 of the current year. The request will state the factual and legal basis on which the request is based. (3-31-22)( )

i. Tax Commission staff will provide preliminary appraisals to operating property owners by June 8 of the current year. ( )

b. Notice of hearing. The Tax Commission will notify both parties and all counties of the place, date

and time of the hearing. ( )

c. Submission of documents and other evidence. ~~The taxpayer's operating statement, applicable yield studies, the staff's appraisal and the taxpayer's notice of appeal and request for hearing are deemed a part of the record of the hearing. Other written appraisals, exhibits, statements, arguments and other documents~~ appealing party may submit all relevant briefs and documents for the Commissioners to consider ~~will be submitted by both parties at least three (3) no later than seven (7) days in advance of the before the hearing date. Tax Commission staff will submit their proposed findings of fact and conclusions of law, response brief, written materials, exhibits, and other documents no later than five (5) days before the hearing date. The appealing party may then submit any other relevant documents no later than three (3) days before the hearing date.~~ Additional information may be presented by either party at the time of their oral presentations, ~~but upon agreement between the Tax Commissioners and the appealing party. Agreement must not be unreasonably withheld by either party.~~ Such additional information should be is limited to subject matter and evidence provided at least ~~three~~ seven (7) days prior to the hearing. Parties will submit ~~ten one (10) electronic copies~~ of all materials; physical copies of the materials are not required to be submitted. (3-31-22)( )

d. Presiding officer. The Chairman of the Tax Commission will appoint an individual who is not a member of the Tax Commission's staff to conduct the hearing. In the absence of a conflict of interest or other good cause, this person will normally be the Commissioner overseeing the centrally assessed property section of the Tax Commission or the designee thereof. A Tax Commissioner will not vote on any matters where he has oversight. (3-31-22)( )

e. The proceeding. In a non-adversarial proceeding witnesses will present evidence and arguments directly to the Tax Commissioners. The presentation may include written materials including a transcript of the witnesses' oral statements. Copies of written materials (including copies of visual presentations) will be provided to each Tax Commissioner, the Tax Commission's ~~secretary~~ Assistant to the State Tax Commission/Board, and the Staff. At the conclusion of a witness' testimony, Tax Commissioners may pose questions. The party with the burden of proof on the matter to be considered will present first and may make a closing presentation. This closing presentation should be limited to the subject matter and evidence presented during the proceeding. (3-31-22)( )

f. Testimony under oath. All testimony to questions of fact to be considered by the Tax Commission in hearings, except matters noticed officially or entered by stipulation, will be under oath. Before testimony is presented each person will swear, or affirm, that the testimony he is about to give will be the truth. Attorneys may present oral and written legal argument on behalf of clients as part of the presentation by the party they represent. ( )

g. Rules of evidence. No informality in any proceeding or in the manner of taking testimony will invalidate any order or decision made by the Tax Commission. Unless otherwise provided in these rules the Idaho Rules of Evidence will be generally followed but may be modified at the discretion of the Tax Commission to aid in ascertaining the facts. When objection is made to the admissibility of evidence, the evidence may be received subject to later ruling by the Tax Commission. The Tax Commission, at its discretion either with or without objection may limit or exclude inadmissible, incompetent, cumulative or irrelevant evidence. Parties objecting to the introduction of evidence will briefly state the grounds of objection at the time such evidence is offered. ( )

h. Recessing hearing for conference. In any proceeding the presiding officer may, ~~in~~ at his discretion, call both parties together for a conference prior to the taking of testimony, or may recess the hearing for a conference. The presiding officer will state on the record the results of the conference. (3-31-22)( )

i. Transcript. An official electronically recorded transcript of the hearing may be taken at the discretion of the Tax Commission when requested by a party. A petitioner desiring the taking of stenographic notes by a qualified court reporter may notify the Tax Commission in writing and will arrange for the hiring of a reporter and bear the expense of the reporter's fees. If the reporter's transcript is deemed by the Tax Commission or presiding officer as the official transcript of the hearing, the petitioner will furnish the Tax Commission a transcript free of charge. (3-31-22)( )

j. Transcript copies. A request for a copy of a transcript of proceedings at any hearing must be in writing or on the record. Upon completion of the transcript, the Tax Commission will notify the person requesting a

copy of the fee for producing the transcript. Upon receipt of the fee, the Tax Commission will send a copy of the transcript. ( )

**408. RE-EXAMINATION OF VALUE -- COMPLAINT BY ASSESSOR ~~(RULE 408)~~.**  
Section 63-408, Idaho Code

~~01. Request for Reexamination of Value. Section 63-408, Idaho Code, entitles the assessor (complainant) of any county in which the value of operating property is apportioned, to request that the Tax Commission reexamine the valuation. (3-31-22)~~

**021. Information to be Provided by the Tax Commission.** After ~~preliminary~~ initial values are established and sent to the respective taxpayers, the Tax Commission will send to each ~~C~~county Assessor a statement of the value allocated to Idaho for each centrally assessed taxpayer, together with the previous year's Idaho value for that taxpayer. (3-31-22)( )

~~032. Complaint.~~ On or before July 15, an ~~complainant~~ assessor may file a written complaint ~~under Section 63-408, Idaho Code. A complaint by an assessor to requesting~~ the Tax Commission ~~to~~ examine the valuation and allocation of value of operating property. The complaint must be in writing and contain clear and concise questions regarding the valuation and allocation in question. The Tax Commission will send a copy of the complaint promptly to the taxpayer. (3-31-22)( )

~~043. Meeting to Examine Valuation and Allocation.~~ Upon receipt of a complaint ~~under Section 63-408, Idaho Code,~~ the ~~staff of the~~ Tax Commission will schedule a meeting between the staff appraiser(s) who performed the valuation ~~and allocation~~ and the ~~complainant~~ assessor. Notice of this meeting ~~will be~~ is sent to the taxpayer in question. At this meeting, the staff appraiser(s) will answer the ~~complainant's~~ assessor's questions to the best of his knowledge. The taxpayer or representative may participate in this meeting. (3-31-22)( )

**409. -- 410. (RESERVED)**

**411. PRIVATE CAR REPORTING BY RAILROAD COMPANIES ~~(RULE 411)~~.**  
Section 63-411, Idaho Code

The president or other officer of each railroad company whose railroad tracks run through, in, or into Idaho ~~shall will,~~ by April 15 of each year file a report with the ~~State~~ Tax Commission that includes the following: (3-31-22)( )

**01. Name of Reporting Railroad Company.** Report the name of the railroad company making the report. ( )

**02. Name of Private Railcar Fleet.** Report the name of each private railcar fleet, defined under Sections 63-201(14) and 63-411, Idaho Code, having traveled on the reporting railroad company's track. ( )

**03. Private Railcar Fleet's Address.** Report the business address of each reported private railcar fleet. ( )

**04. Car Type.** Report the type of cars by identifying symbol. ( )

**05. Marks.** Report the car marks. ( )

**06. Miles Traveled.** Report the total number of miles traveled on the reporting railroad's track, including main line, branches, sidings, spurs, and warehouse or industrial track in Idaho during the year ending December 31 of the preceding year. ( )

**412. (RESERVED)**

**413. SPECIAL PROVISIONS FOR PRIVATE RAILCAR FLEETS ~~(RULE 413)~~.**  
Section 63-411, Idaho Code

**01. Definitions.** ~~The following terms are defined for the valuation, allocation and apportionment of~~



~~private railcar fleets.~~

~~(3-31-22)( )~~

a. ~~Idaho Miles.~~The Idaho miles are the total number of miles traveled in Idaho by all cars in the private railcar fleet during the calendar year immediately preceding the current tax year. ~~(3-31-22)( )~~

b. ~~Idaho Taxable Value.~~The Idaho ~~taxable~~ market value is that portion of the system value that reflects the value of that part of the private railcar fleet located in Idaho during all or part of a tax year. ~~(3-31-22)( )~~

c. ~~System Miles.~~The system miles are the total number of miles, both in and out of Idaho, traveled by all cars in the private railcar fleet during the calendar year immediately preceding the current tax year. ~~(3-31-22)( )~~

d. ~~System Value.~~The system value is the value of the entire private railcar fleet regardless of the location of its various components. ~~(3-31-22)( )~~

**02. Railcar Valuation, Allocation and Apportionment.** ~~For tax years beginning on or after 1998,~~ The Tax Commission will appraise the system value of each private railcar fleet and allocate a portion of the system value to Idaho to obtain the Idaho ~~taxable~~ market value as set forth below. The Idaho ~~taxable~~ market value will be apportioned to the appropriate counties in Idaho pursuant to section 63-411, Idaho Code. ~~(3-31-22)( )~~

**03. Allocation.** System value is allocated using the “miles to miles” method of allocation. ( )

**04. “Miles to Miles” Method of Allocation.** The Tax Commission will divide Idaho miles by system miles and multiply the quotient by five-tenths (0.5). The product of this calculation will be multiplied by the system value to determine Idaho ~~taxable~~ market value. ~~(3-31-22)( )~~

**414. (RESERVED)**

**415. APPORTIONMENT OF RAILCAR FLEET’S ASSESSED VALUES WITHIN THE STATE** ~~(RULE 415).~~  
Section 63-411, Idaho Code

**01. Private Railcar Fleet Apportionment.** Railroad track miles will be used for the apportionment of each private railcar fleet’s assessed value when the value within Idaho equals five hundred thousand dollars (\$500,000) or more. The Idaho value of each private railcar fleet will be multiplied by a ratio of this private railcar fleet’s mileage for each railroad to this private railcar fleet’s total mileage in Idaho and divided by the in-service main track mileage of that particular railroad, to obtain a rate per mile. This rate per mile is multiplied by the in-service main track mileage in each county and tax code area to calculate the apportioned value. For the purpose of apportioning value by miles traveled, main track includes branch lines, as well as main lines, but does not include industrial spurs, sidings or passing tracks. ( )

**02. Determination of Average Tax Rate – Private Railcar Fleets Under Five Hundred Thousand Dollars Assessed Value.** For private railcar fleets having an assessed value of less than five hundred thousand dollars (\$500,000), the average tax rate is computed each year by dividing the current taxes for all private railcar fleets with assessed value of five hundred thousand dollars (\$500,000) or more by the current Idaho value of all such fleets. By November 15 of each year, each county treasurer must provide the Tax Commission with the amount of taxes due from all private railcar fleets in the county. ( )

**416. (RESERVED)**

**417. PENALTY FOR FAILURE TO MAKE STATEMENT** ~~(RULE 417).~~

If a private railcar fleet fails or refuses to file the operator’s statement as provided by Section 63-404, Idaho Code, by April 30 of each year, the Tax Commission will add a penalty. The penalty is fifty percent (50%) of the assessed value, determined by the Tax Commission, as provided by Section 63-411, Idaho Code. When an emergency exists, the company may petition the Tax Commission for an extension of time for filing, not to exceed thirty (30) days. For such petition to be valid it must be submitted in writing to the Tax Commission by April 30 of each year. ( )

418. -- 508. (RESERVED)

509. ABSTRACTS OF VALUE ~~(RULE 509)~~.

Sections 63-105A, 63-509, 50-2903, Idaho Code

**01. Definitions.** ~~The following definitions apply for the purposes of testing for equalization under Section 63-109, Idaho Code, notification under Sections 63-301 and 63-308, Idaho Code, and reporting under Section 63-509, Idaho Code.~~ (3-31-22)( )

~~**a.** Increment Value. Increment value means, as defined in Section 50-2903, Idaho Code, the total value calculated by summing the differences between the current equalized value of each taxable property in the revenue allocation area and that property's current base value on the base assessment roll, provided such difference is positive.~~ (3-31-22)

~~**ba.** Primary Category. Primary category means the categories established and described by Subsections 130.021 through 130.06 of these rules and used by the Tax Commission to test for equalization under Section 63-109, Idaho Code.~~ (3-31-22)( )

~~**eb.** Secondary Category. Secondary category means the categories established and described by Rules 510, 511, and 512 of these rules and used by county assessors to list property values on the valuation assessment notice under Sections 63-301 and 63-308, Idaho Code, and report values to the Tax Commission under Section 63-509, Idaho Code, and this Rule. Secondary categories may also be tested for equalization purposes, provided they meet the criteria in Subsection 131.05 of these rules.~~ (3-31-22)( )

**c.** Secondary Category 81. To list exempt land, improvements, or personal property use category 81. ( )

~~**d.** Abstract. A document summarizing taxable (net taxable value) and market value for assessment purposes (full market value) by secondary category of property. Abstracts are prepared for the county, cities, the Boise School District, and any taxing district or unit of government which does not levy property tax against all otherwise taxable property. Abstracts are to be prepared for the property roll and the combined missed and subsequent property rolls submitted as required in Rule 115 of these rules.~~ (3-31-22)( )

**02. Additional Information to be Included.** ~~In addition to the taxable value and the market value for assessment purposes of property on the property rolls, the abstract must also report and subtract the value of exemptions required to be reported under Section 63-509, Idaho Code, any increment value as defined in Section 50-2903, Idaho Code, and the value of any exemption provided under Sections 63-602W(4), 63-602GG, 63-602HH, 63-602II, 63-602NN, 63-4502, 63-606A, and 63-3029B, Idaho Code. Increment value and exemption value thus reported will be subtracted from the market value for assessment purposes shown for each secondary category of property on each abstract.~~ (3-31-22)( )

**03. Verification of Abstracts.** ~~For the purposes of this rule and meeting the requirements of Section 63-509, Idaho Code, the abstract of the property rolls prepared by the county auditor will be considered duly verified provided that the auditor signs a document indicating:~~ (3-31-22)( )

~~**a.** That the required summary information is based on the most current available information received from the assessor following the conclusion of the county board of equalization, and;~~ (3-31-22)( )

~~**b.** That the assessor certifies to the auditor that all changes, corrections, additions, and exemptions entered onto the rolls as a result of county board of equalization action have been duly entered.~~ ( )

**04. Nature of Verification Document.** ~~The abstract verification document will is certified by the assessor to the auditor and includes the signatures of the county assessor and auditor or duly appointed representatives. The substance of the verbiage in the document will be equivalent to that found in the following sample:~~

~~(Name of county auditor), being first duly sworn, deposes and says that he/she is the duly qualified and acting auditor~~

~~in and for the county of (Name), State of Idaho, and that the above and foregoing is a full, true and correct abstract of the valuation of all property entered on the property roll (or subsequent and missed property rolls) for the year (Year), as certified by the assessor to the auditor and equalized by the Board of County Commissioners of said county in session as a board of equalization. (3-31-22)( )~~

**05. Submittal of Corrections to Erroneous Abstracts or Related Documents.** When completing the procedures set forth in Section 63-810, Idaho Code, ~~boards of county commissioners should submit the~~ corrections to the net taxable values submitted on the abstracts or related documents ~~under provisions of Section 63-509, Idaho Code, and this rule, no later than when they submit the~~ are to be submitted with corrected levies ~~under Section 63-810, Idaho Code. (3-31-22)( )~~

**06. Cross Reference.** See Rules 115, 130, 510, 511, and 512 of these rules ~~for requirements to submit city, Boise School District, and special district or unit of government abstracts. For the descriptions of the categories used to test for equalization, see Subsections 130.02 through 130.06 of these rules. For descriptions of secondary categories used to list and report land values, see Rule 510 of these rules, used to list and report the value of improvements, see Rule 511 of these rules, or used to list and report all property values other than that for land or improvements, see Rule 512 of these rules. For information relating to notification of corrections to erroneous levies, see Sections 63-809 and 63-810 and 50-2903, Idaho Code, and Rule 809 of these rules. (3-31-22)( )~~

**510. SECONDARY CATEGORIES FOR LAND - LISTING AND REPORTING (RULE 510).**  
Section 63-509, Idaho Code

County assessors will use the following secondary categories ~~described in the following subsections, indicated by numbers,~~ to list land values on the valuation assessment notices under Sections 63-301 and 63-308, Idaho Code. ~~County assessors will use these secondary categories described in the following subsections, indicated by numbers, and the secondary categories described in the following paragraphs, indicated by letters, and to report land values to the Tax Commission on the abstracts under Section 63-509, Idaho Code, and Rule 509 of these rules. For all of the above listed functions, assign all appropriate secondary land categories to parcels of property put to multiple uses. (3-31-22)( )~~

**01. Secondary Category 1 - Irrigated Agricultural Land.** ~~Irrigated land and only such irrigated land eligible for and granted the partial exemption for the current year's assessment roll as actively devoted to agriculture. (See Sections 63-604 and 63-602K, Idaho Code, and Rule 645 of these rules.) Only place Irrigated land meeting the definition of "land actively devoted to agriculture" under Section 63-604, Idaho Code, or the requirements for "wildlife habitat" or "conservation agreement" under Section 63-605, Idaho Code, for the current assessment year in this secondary category. This irrigated land must be capable of and normally producing harvestable crops and may be located inside or outside the boundaries of a subdivision without restrictions on such use or the boundaries of an incorporated city. (3-31-22)( )~~

**02. Secondary Category 2 - Irrigated Grazing Land.** ~~Irrigated land and only such irrigated land eligible for and granted the partial exemption for the current year's assessment roll as actively devoted to agriculture. (See Sections 63-604 and 63-602K, Idaho Code, and Rule 645 of these rules.) Only place I land meeting the definition of "land actively devoted to agriculture" under Section 63-604, Idaho Code, or the requirements for "wildlife habitat" or "conservation agreement" under Section 63-605, Idaho Code, for the current assessment year in this secondary category. This irrigated land must be as defined in Secondary Category 1, but primarily used for grazing livestock and not normally capable of producing harvestable crops and may be located inside or outside the boundaries of a subdivision without restrictions on such use or the boundaries of an incorporated city. (3-31-22)( )~~

**03. Secondary Category 3 - Non-Irrigated Agricultural Land.** ~~Land and only such land eligible for and granted the partial exemption for the current year's assessment roll as actively devoted to agriculture. (See Sections 63-604 and 63-602K, Idaho Code, and Rule 645 of these rules.) Only place land meeting the definition of "land actively devoted to agriculture" under Section 63-604, Idaho Code, or the requirements for "wildlife habitat" or "conservation agreement" under Section 63-605, Idaho Code, for the current assessment year in this secondary category. This as defined in Secondary Category 1, but non-irrigated land must and be capable of and normally producing harvestable crops ~~without man-made irrigation and may be located inside or outside the boundaries of a subdivision without restrictions on such use or the boundaries of an incorporated city. (3-31-22)( )~~~~

~~04. Secondary Category 4 - Meadow Land. Land and only such land eligible for and granted the partial exemption for the current year's assessment roll as actively devoted to agriculture. (See Sections 63-604 and 63-602K, Idaho Code, and Rule 645 of these rules.) Only place land meeting the definition of "land actively devoted to agriculture" under Section 63-604, Idaho Code, or the requirements for "wildlife habitat" or "conservation agreement" under Section 63-605, Idaho Code, for the current assessment year in this secondary category. This meadow land must be as defined in Secondary Category 1, capable of lush production of grass and may be located inside or outside the boundaries of a subdivision without restrictions on such use or the boundaries of an incorporated city but is not irrigated, except through subsurface water table control, known as subirrigation, and is used for grazing livestock or producing grass hay.~~ (3-31-22)( )

~~05. Secondary Category 5 - Dry Grazing Land. Land and only such land eligible for and granted the partial exemption for the current year's assessment roll as actively devoted to agriculture. (See Sections 63-604 and 63-602K, Idaho Code, and Rule 645 of these rules.) Only place land meeting the definition of "land actively devoted to agriculture" under Section 63-604, Idaho Code, or the requirements for "wildlife habitat" or "conservation agreement" under Section 63-605, Idaho Code, for the current assessment year in this secondary category. This land must be as defined in Secondary Category 1, capable of supporting grasses and but has no irrigation infrastructure, is not normally capable of supporting crops on regular rotation and may be located inside or outside the boundaries of a subdivision without restrictions on such use or the boundaries of an incorporated city and is used primarily for grazing livestock.~~ (3-31-22)( )

~~06. Secondary Category 6 - Productivity Forestland. All L and only such land designated by the owner for assessment, appraisal, and taxation under Section 63-1703(a), Idaho Code, for the current year's assessment roll. This land must be assessed as forest land under the productivity option and may be located inside or outside the boundaries of an incorporated city. Also included is all land assessed under Section 63-1704, Idaho Code.~~ (3-31-22)( )

~~07. Secondary Category 7 - Bare Forestland. All land and only such land designated by the owner for assessment, appraisal, and taxation under Section 63-1703(b), Idaho Code, for the current year's assessment roll. This land must be assessed as bare land with the yield tax option and may be located inside or outside the boundaries of an incorporated city.~~ (3-31-22)( )

~~08. Secondary Category 8. Not presently used.~~ (3-31-22)

~~09. Secondary Category 9 - Patented Mineral Land. All land used solely for mines and mining claims and only the part of such land not used for other than mining purposes for the current year's assessment roll. This land may be located inside or outside the boundaries of an incorporated city. See Section 63-2801, Idaho Code.~~ (3-31-22)( )

~~10. Secondary Category 10 - Homesite Land. Rural non-subdivided land being utilized for homesites with secondary categories 1 through 9. Note: This land is always land with improvements located on it since land with no improvements should be in one (1) or more of categories 1 through 9.~~ (3-31-22)( )

~~11. Secondary Category 11 - Recreational Land. Rural land used in conjunction with recreation but not individual homesites.~~ ( )

~~a. Secondary Category 11 - Vacant Recreational Land. Vacant rural land used for recreational purposes but not individual homesites or in a properly recorded subdivision.~~ (3-31-22)

~~b. Secondary Category 11 - Improved Recreational Land. Rural land with improvements, including exempt improvements, used for recreational purposes on that land but not individual homesites or in a properly recorded subdivision.~~ (3-31-22)

~~12. Secondary Category 12 - Rural Residential Tracts. Rural residential land not in a properly recorded subdivision.~~ ( )

~~a. Secondary Category 12 - Vacant Rural Residential Tracts. Vacant rural land used for residential purposes but not in a properly recorded subdivision.~~ (3-31-22)

~~**b.** Secondary Category 12 – Improved Rural Residential Tracts. Rural land with improvements, including exempt improvements, used for residential purposes on that land but not in a properly recorded subdivision. (3-31-22)~~

**132.** **Secondary Category 13 - Rural Commercial Tracts.** Rural commercial land not in a properly recorded subdivision. ( )

~~**a.** Secondary Category 13 – Vacant Rural Commercial Tracts. Vacant rural land used for commercial purposes but not in a properly recorded subdivision. (3-31-22)~~

~~**b.** Secondary Category 13 – Improved Rural Commercial Tracts. Rural land with improvements, including exempt improvements, used for commercial purposes on that land but not in a properly recorded subdivision. (3-31-22)~~

**143.** **Secondary Category 14 - Rural Industrial Tracts.** Rural industrial land not in a properly recorded subdivision. ( )

~~**a.** Secondary Category 14 – Vacant Rural Industrial Tracts. Vacant rural land used for industrial purposes but not in a properly recorded subdivision. (3-31-22)~~

~~**b.** Secondary Category 14 – Improved Rural Industrial Tracts. Rural land with improvements, including exempt improvements, used for industrial purposes on that land but not in a properly recorded subdivision. (3-31-22)~~

**154.** **Secondary Category 15 - Rural Residential Subdivisions.** Rural residential land in a properly recorded subdivision. ( )

~~**a.** Secondary Category 15 – Vacant Rural Residential Subdivisions. Vacant rural land used for residential purposes and in a properly recorded subdivision. (3-31-22)~~

~~**b.** Secondary Category 15 – Improved Rural Residential Subdivisions. Rural land with improvements, including exempt improvements, used for residential purposes on that land and in a properly recorded subdivision. Also use this category for rural homesites within subdivisions when the remaining acreage qualifies as actively devoted to agriculture under Section 63-604, Idaho Code, or has been designated forestland under Chapter 17, Title 63, Idaho Code. (3-31-22)~~

**165.** **Secondary Category 16 - Rural Commercial Subdivisions.** Rural commercial land in a properly recorded subdivision. ( )

~~**a.** Secondary Category 16 – Vacant Rural Commercial Subdivisions. Vacant rural land used for commercial purposes and in a properly recorded subdivision. (3-31-22)~~

~~**b.** Secondary Category 16 – Improved Rural Commercial Subdivisions. Rural land with improvements, including exempt improvements, used for commercial purposes on that land and in a properly recorded subdivision. (3-31-22)~~

**176.** **Secondary Category 17 - Rural Industrial Subdivisions.** Rural industrial land in a properly recorded subdivision. ( )

~~**a.** Secondary Category 17 – Vacant Rural Industrial Subdivisions. Vacant rural land used for industrial purposes and in a properly recorded subdivision. (3-31-22)~~

~~**b.** Secondary Category 17 – Improved Rural Industrial Subdivisions. Rural land with improvements, including exempt improvements, used for industrial purposes on that land and in a properly recorded subdivision. (3-31-22)~~

- ~~187.~~ **Secondary Category 18 - Other Land.** ~~Land not compatible with other secondary categories.~~ (3-31-22)( )
- ~~a.~~ **Secondary Category 18 - Vacant Other Land.** ~~Vacant land not compatible with other secondary categories.~~ (3-31-22)
- ~~b.~~ **Secondary Category 18 - Improved Other Land.** ~~Land with improvements, including exempt improvements, on that land but not compatible with other secondary categories.~~ (3-31-22)
- ~~198.~~ **Secondary Category 19 - Waste.** Public Rights-of-Way includes esing roads, ditches, and canals. Use this secondary category to account for Record total acres of land ownership. Only list acres, not value, in this secondary category on the abstract. No assessed value should be assigned. (3-31-22)( )
- ~~2019.~~ **Secondary Category 20 - Residential Lots or Acreages.** Land used for residential purposes and inside city limits. (3-31-22)
- ~~a.~~ **Secondary Category 20 - Vacant Residential Lots Or Acreages.** ~~Vacant land used for residential purposes and inside city limits.~~ (3-31-22)
- ~~b.~~ **Secondary Category 20 - Improved Residential Lots Or Acreages.** ~~Land with improvements, including exempt improvements, used for residential purposes on that land and inside city limits. Also use this category for urban homesites when the remaining acreage qualifies as actively devoted to agriculture under Section 63-604, Idaho Code, or has been designated forestland under Chapter 17, Title 63, Idaho Code.~~ (3-31-22)( )
- ~~210.~~ **Secondary Category 21 - Commercial Lots or Acreages.** Land used for commercial purposes and inside city limits. ( )
- ~~a.~~ **Secondary Category 21 - Vacant Commercial Lots Or Acreages.** ~~Vacant land used for commercial purposes and inside city limits.~~ (3-31-22)
- ~~b.~~ **Secondary Category 21 - Improved Commercial Lots Or Acreages.** ~~Land with improvements, including exempt improvements, used for commercial purposes on that land and inside city limits.~~ (3-31-22)
- ~~221.~~ **Secondary Category 22 - Industrial Lots or Acreages.** Land used for industrial purposes and inside city limits. ( )
- ~~a.~~ **Secondary Category 22 - Vacant Industrial Lots Or Acreages.** ~~Vacant land used for industrial purposes and inside city limits.~~ (3-31-22)
- ~~b.~~ **Secondary Category 22 - Improved Industrial Lots Or Acreages.** ~~Land with improvements, including exempt improvements, used for industrial purposes on that land and inside city limits.~~ (3-31-22)
- ~~232.~~ **Secondary Category 25 - Common Area Vacant Land.** Common area vacant land not included in individual property assessments. ( )
- ~~24.~~ **Secondary Category 45 - Utility System Vacant Land.** ~~Vacant land used for locally assessed utility systems not under the jurisdiction of the Tax Commission for appraisal.~~ (3-31-22)
- ~~25.~~ **Secondary Category 57 - Equities In Vacant Land Purchased From the State.** ~~For identification purposes under Section 63-211, Idaho Code, vacant land purchased from the state under contract.~~ (3-31-22)
- ~~26.~~ **Secondary Category 81 - Exempt Land.** ~~Category 81 is for county use to keep an inventory, including acreage, of exempt land.~~ (3-31-22)
- ~~273.~~ **Cross Reference.** ~~For descriptions of secondary categories used to list values for improvements, see Rule 130, 511 of these rules, or used to list property values other than that for land or improvements, see Rule~~

and 512 of these rules. ~~For the descriptions of primary categories and the assignment of secondary categories therein, see Subsections 130.02 through 130.06 of these rules.~~ (3-31-22)( )

**511. SECONDARY CATEGORIES FOR IMPROVEMENTS - LISTING AND REPORTING** ~~(RULE 511).~~

Sections ~~63-301, 63-308,~~ 63-509, Idaho Code

County assessors will use the following secondary categories to list improved property values on the valuation assessment notice under Sections 63-301 and 63-308, Idaho Code, and ~~to report improved property values to the Tax Commission on the~~ abstracts under Section 63-509, Idaho Code, and Rule 509 of these rules. ~~For all of the above listed functions, assign all appropriate secondary improvement categories to parcels of property put to multiple uses.~~ (3-31-22)( )

**01. Secondary Category 25 - Common Area Land and Improvements.** Common area land and improvements on that land not included in individual property assessments. ( )

**02. Secondary Category 26 - Residential Condominiums.** Land and improvements included in individual assessments of condominiums or townhouses and used for residential purposes. ( )

**03. Secondary Category 27 - Commercial or Industrial Condominiums.** Land and improvements included in individual assessments of condominiums and used for commercial or industrial purposes. ( )

**04. Secondary Category 30 - Improvements.** Improvements, other than residential, located on secondary category 20. ( )

**05. Secondary Category 31 - Improvements.** Improvements used for residential purposes and located on secondary category 10. ( )

**06. Secondary Category 32 - Improvements.** Improvements, other than residential, located on secondary categories 1 through 12 and 15. ( )

**07. Secondary Category 33 - Improvements.** Improvements used in conjunction with recreation but not associated with homesites and located on secondary category 11. ( )

**08. Secondary Category 34 - Improvements.** Improvements used for residential purposes and located on secondary category 12. ( )

**09. Secondary Category 35 - Improvements.** Improvements used for commercial purposes and located on secondary category 13. ( )

**10. Secondary Category 36 - Improvements.** Improvements used for industrial purposes and located on secondary category 14. ( )

**11. Secondary Category 37 - Improvements.** Improvements used for residential purposes and located on secondary category 15. ( )

**12. Secondary Category 38 - Improvements.** Improvements used for commercial purposes and located on secondary category 16. ( )

**13. Secondary Category 39 - Improvements.** Improvements used for industrial purposes and located on secondary category 17. ( )

**14. Secondary Category 40 - Improvements.** Improvements located on secondary category 18. ( )

**15. Secondary Category 41 - Improvements.** Improvements used for residential purposes and located on secondary category 20. ( )

16. **Secondary Category 42 - Improvements.** Improvements used for commercial purposes and located on secondary category 21. ( )

17. **Secondary Category 43 - Improvements.** Improvements used for industrial purposes and located on secondary category 22. ( )

~~18. Secondary Category 44. Not presently used. (3-31-22)~~

~~19. Secondary Category 45 - Utility System Land and Improvements.~~ Locally assessed land and improvements and other property used as utility systems ~~and not under the jurisdiction of the Tax Commission for appraisal.~~ (3-31-22)( )

~~20. Secondary Category 46 - Manufactured Housing.~~ Structures transportable in one (1) or more sections, built on a permanent chassis, ~~for use with or without permanent foundation~~ and located on land under the same ownership ~~as the manufactured home~~ but assessed separately from the land. Include any manufactured home ~~located on land under the same ownership as the manufactured home on which~~ meeting these conditions, on which a statement of intent to declare as real property has been filed but becomes effective the following year. (3-31-22)( )

20. **Secondary Category 47 - Improvements to Manufactured Housing.** Additions not typically moved with manufactured housing. ( )

21. **Secondary Category 48 - Manufactured Housing.** Manufactured housing permanently affixed to land under the same ownership as the manufactured home or permanently affixed to leased land and on which a statement of intent to declare as real property has been filed and has become effective. (3-31-22)( )

~~23. Secondary Category 49 - Manufactured Housing.~~ Manufactured housing permanently affixed to leased land and on which a statement of intent to declare as real property has been filed and has become effective. (3-31-22)

24. **Secondary Category 50 - Residential Improvements on Leased Land.** Improvements used for residential purposes and located on leased land, including railroad rights-of-way under separate ownership, exempt land, or any other land under different ownership than the improvements. ( )

~~25. Secondary Category 51 - Commercial or Industrial Improvements on Leased Land.~~ Improvements used for commercial or industrial purposes and located on leased land, including railroad rights-of-way under separate ownership, exempt land, or any other land under different ownership than the improvements. ( )

~~26. Secondary Category 57 - Equities in Land With Improvements Purchased From the State.~~ Land with the improvements on that land that are purchased from the state under contract. (3-31-22)

~~27. Secondary Category 60. Not presently used. (3-31-22)~~

~~28. Secondary Category 61. Not presently used. (3-31-22)~~

~~29. Secondary Category 62. Not presently used. (3-31-22)~~

~~30. Secondary Category 65 - Manufactured Housing.~~ Manufactured housing not designated real property and located on exempt, rented or leased land under separate ownership. Include any manufactured home located on exempt, rented or leased land on which a statement of intent to declare as real property has been filed but becomes effective the following year. ( )

~~31. Secondary Category 69 - Recreational Vehicles.~~ Unlicensed recreational vehicles. ( )

~~32. Secondary Category 81 - Exempt Improvements.~~ Category 81 is for county use to keep an inventory of exempt improvements. (3-31-22)



~~3326.~~ **Cross Reference.** For descriptions of secondary categories used to list land values, ~~s~~See Rule 510 of these rules, or used to list property values other than that for land or improvements, see Rule ~~and~~ 512 of these rules. For the descriptions of primary categories and the assignment of secondary categories therein, see Subsections 130.02 through 130.06 of these rules. (3-31-22)(    )

**512. SECONDARY CATEGORIES, OTHER THAN LAND OR IMPROVEMENTS - LISTING AND REPORTING (RULE 512).**

Sections 63-509, 63-2802, Idaho Code

County assessors will use the following secondary categories to list property values, ~~other than that for land or improvements~~, on assessment notices under Sections 63-301 and 63-308, Idaho Code, and ~~will use these secondary categories to report values for property, other than land or improvements, to the Tax Commission on the abstracts~~ under Section 63-509, Idaho Code, and Rule 509 of these rules. (3-31-22)(    )

~~01. Secondary Category 45 – Utility System Personal Property.~~ Personal property that is part of locally assessed utility systems not under the jurisdiction of the Tax Commission for appraisal. (3-31-22)

~~02. Secondary Category 55 – Boats or Aircraft.~~ Unlicensed watercraft or unregistered aircraft. (3-31-22)

~~031. Secondary Category 56 - Construction Machinery, Tools, and Equipment.~~ Unlicensed equipment such as cranes, tractors, scrapers, and rock crushers, used in the building trade or road construction. (3-31-22)(    )

~~04. Secondary Category 57 – Equities in Personal Property Purchased From the State.~~ Personal property purchased from the state under contract. (3-31-22)

~~052. Secondary Category 59 - Furniture, Libraries, Art, and Coin Collections - Commercial Uses.~~ Trade articles used commercially for convenience, decoration, service, storage, including store counters, display racks, typewriters, office machines, surgical and scientific instruments, paintings, books, coin collections, and all such items held for rent or lease. (3-31-22)(    )

~~063. Secondary Category 63 - Logging Machinery, Tools, and Equipment.~~ Unlicensed logging machinery, shop tools, and equipment not assessed as real property. (3-31-22)(    )

~~074. Secondary Category 64 - Mining Machinery, Tools, and Equipment.~~ Unlicensed mining machinery, shop tools, and equipment not assessed as real property. (3-31-22)(    )

~~085. Secondary Category 66 - Net Profits of Mines.~~ That amount of money or its equivalent received from the sale or trade of minerals or metals extracted from the Earth after deduction of allowable expenses. See Section 63-2802, Idaho Code, and Rule 982 of these rules. (3-31-22)(    )

~~096. Secondary Category 67 - Operating Property.~~ Property assessed ~~and apportioned~~ by the Tax Commission. (3-31-22)(    )

~~107. Secondary Category 68 - Other Miscellaneous Machinery, Tools, and Equipment.~~ Unlicensed machinery, tools, and equipment not used in construction, logging, mining, or not used exclusively in agriculture. (3-31-22)(    )

~~11. Secondary Category 70 – Reservations and Easements.~~ Reservations, including mineral rights reserved, divide ownership of property rights. Easements convey use but not ownership. (3-31-22)

~~1208. Secondary Category 71 - Signs and Signboards.~~ Signs and signboards, their bases and supports. (3-31-22)(    )

~~1309. Secondary Category 72 - Tanks, Cylinders, Vessels.~~ Containers. (3-31-22)(    )

**140. Secondary Category 81 - Exempt Property, ~~Other Than Land or Improvements~~.** Category 81 is for county use to keep an inventory of exempt property ~~other than, including~~ land, ~~or~~ improvements, ~~and personal property~~. (3-31-22)(    )

**151. Cross Reference.** ~~For descriptions of secondary categories used to list land values on the valuation assessment notice or report land values on the abstracts, see Rules 510, of these rules or used to list values for improvements on the valuation assessment notice or report improvement values on the abstracts, see Rule 511, or 130 of these rules. For the descriptions of primary categories and the assignment of secondary categories therein, see Subsections 130.02 through 130.06 of these rules.~~ (3-31-22)(    )

**513. -- 599. (RESERVED)**

**600. PROPERTY EXEMPT FROM TAXATION ~~(RULE 600)~~.**  
Section 63-602, Idaho Code

**01. Burden of Proof.** The burden of proof of entitlement to the exemption is on the person claiming exemption for the property. ( )

**02. Notice of Decision.** ( )

**a.** For property subject to local assessment with exemptions requiring annual application ~~as specified in the statute providing the exemption or in Section 63-602(3), Idaho Code~~, the taxpayer must be notified of the decision of the county commissioners to grant or deny the exemption by May 15 unless a different date is prescribed in the law providing the exemption. (3-31-22)(    )

**b.** For property subject to assessment by the Tax Commission, application for any exemption ~~will be~~ is included with the operator's statement ~~to be submitted as provided in pursuant to~~ Section 404, of these rules. (3-31-22)(    )

**03. Confidentiality.** Information disclosed as part of an application for an exemption is confidential to the extent provided by ~~in~~ Section 74-107, Idaho Code, or elsewhere in law. Information disclosed to the county commissioners as part of the application process for an exemption ~~will be~~ is deemed submitted to the assessor and entitled to any confidentiality ~~that would have been conferred had such on~~ information ~~been~~ disclosed initially to the assessor. (3-31-22)(    )

**601. -- 602. (RESERVED)**

**603. PROPERTY EXEMPT FROM TAXATION – RELIGIOUS CORPORATIONS OR SOCIETIES ~~(RULE 603)~~.**  
Section 63-602B, Idaho Code

**01. Valuing the Taxable Part of Qualifying Property.** Under Section 63-602B(2), Idaho Code, a county will determine the value of the part of the property used or leased for business or commercial purposes by considering the particular facts of each case, examining the amount of time, during the calendar year, the property is used for business or commercial purposes, the percentage of the property used for business or commercial purposes, or a combination thereof. The county may require reporting by the religious corporation or society of any use of the property for business or commercial usage in such form, and by such date, as the county establishes. ( )

**02. Comparable Valuation Methodology to Partially Exempt Property Under Section 63-602C, Idaho Code.** To value the taxable part of any otherwise qualifying property exempt under Section 63-602B, Idaho Code, each county should use comparable methods to those ~~being it uses~~ is to value the taxable part of qualifying exempt property under Section 63-602C, Idaho Code. (3-31-22)(    )

**604. (RESERVED)**

**605. PROPERTY EXEMPT FROM TAXATION - PROPERTY USED FOR SCHOOL OR EDUCATIONAL PURPOSES ~~(RULE 605)~~.**

Section 63-602E, Idaho Code

**01. Eligibility of Leased Property.** Leased property used exclusively for non-profit school or educational purposes, including charter school purposes, ~~will be is~~ eligible for the exemption provided in Section 63-602E, Idaho Code, ~~provided if it meets~~ the following criteria ~~are met~~: (3-31-22)( )

a. Leased real property must be exclusively used for the educational purposes identified in Subsection 605.01 of this rule. Such leased real property may be part of a multi-use property, ~~in which case but~~ only the portions of the property used for ~~the~~ educational purposes ~~will be are~~ eligible for the exemption. (3-31-22)( )

b. Leased personal property must be exclusively used for the educational purposes identified in Subsection 605.01 of this rule. ~~To be considered~~ Property exclusively used in this manner, ~~such personal property must is~~: (3-31-22)( )

i. ~~Be u~~Used exclusively at a non-profit school or charter school facility; or (3-31-22)( )

ii. ~~Have its u~~Used ~~constrained or restricted~~ in such a way as to effectively eliminate the possibility of use for other than educational purposes. (3-31-22)( )

**02. Application for Exemption for Leased Personal Property.** Only the owner of leased personal property can apply for this exemption. Proof of compliance with the requirements of Paragraph 605.01.b. of this rule is required and may be provided by the lessee. ( )

**606. -- 607. (RESERVED)**

**608. PROPERTY EXEMPT FROM TAXATION - HOMESTEAD - CONTINUED ELIGIBILITY AFTER DEATH OF CLAIMANT ~~(RULE 608)~~.**

Section 63-602G, Idaho Code

**01. Ownership Interest.** ~~For the homestead previously qualifying for the exemption provided in Section 63-602G, Idaho Code, t~~To continue to qualify in the year following the death of the qualifying claimant, the homestead must continue to be part of the claimant's estate, without change in record owner. If the ownership interest upon which the exemption had been granted was a life estate, the continuation provided in Section 63-602G(8), Idaho Code, does not apply. (3-31-22)( )

**02. Occupancy.** The continuation of this exemption ~~will is~~ not ~~be~~ affected by occupancy status of the property during the year following the claimant's death. ~~For example, the property may be vacant or rented during that period and may be used for something other than residential purposes.~~ (3-31-22)( )

**609. PROPERTY EXEMPT FROM TAXATION -- HOMESTEAD ~~(RULE 609)~~.**

Sections 63-602G, 63-701, 63-703, and 63-3077, Idaho Code

**01. Homestead Exemption.** ~~The Homestead Exemption g~~Granted in 63-602G, Idaho Code ~~will also be known as the homeowner's exemption.~~ (3-31-22)( )

**02. Maximum Amount of Homestead Exemption.** ~~The homestead exemption is limited to the lesser of fifty percent (50%) of assessed value or one hundred thousand dollars (\$100,000).~~ (3-31-22)

**03. Partial Ownership.** Any partial ownership ~~will be considered is~~ ownership for determining qualification for the homeowner's homestead exemption; ~~however, t~~he amount of the exemption ~~will be decided on the reduced proportion of the value commensurate with the proportion of partial is equal to the percentage of ownership. The proportional reduction will not apply to the ownership interests of a partner of a limited partnership, a member of a limited liability company or a shareholder of a corporation when that person has no less than five percent (5%) ownership interest in the entity unless any ownership interest is shared by any entity other than the limited partnership, limited liability company or corporation. For tenants in common with two (2) improvements located on one (1) parcel of land, determine the applicable value for the homeowner's exemption using the procedure shown in Example 1 of Paragraph 609.03.a., of this rule unless the owner-occupant provides documented evidence of~~

a different ownership interest in the improvement. See Examples 2, 3, and 4 in Paragraphs 609.03.b., 609.03.c., and 609.03.d. of this rule for additional partial ownership guidance. To calculate property tax reduction benefits when partial ownership exists, see Paragraph 700.05.b. of these rules. If a person has five percent (5%) or greater ownership interest in a limited partnership, limited liability company or a shareholder of a corporation, there is no partial ownership adjustment to the homestead exemption. See homestead calculation examples at <https://tax.idaho.gov>. (3-31-22)( )

**a.** Example 1. John Smith and Bob Anderson own a property as tenants in common with two (2) residential improvements located on the property. Each residential improvement is owner-occupied by one (1) of the tenants in common. The homeowner's exemption is calculated as follows:

Description	Value	Notes
Land	\$42,000	
Residential Improvement	\$82,000	Occupied by Mr. Smith
Prorated Ownership Interest (land and improvement)	\$62,000	Mr. Smith's interest
Homeowner's Exemption	\$31,000	For Mr. Smith as owner-occupant
Residential Improvement	\$67,000	Occupied by Mr. Anderson
Prorated Ownership Interest (land and improvement)	\$54,500	Mr. Anderson's interest
Homeowner's Exemption	\$27,250	For Mr. Anderson as owner-occupant

(3-31-22)

**b.** Example 2. John Smith and Bob Anderson own a parcel of land as tenants in common with two (2) residential improvements located on the parcel. Mr. Smith has documented evidence of one hundred percent (100%) interest in one (1) residential improvement and Mr. Anderson has documented evidence of one hundred percent (100%) interest in the remaining residential improvement. Each residential improvement is owner-occupied. The homeowner's exemption is calculated as follows:

Item Description	Value	Notes
Land	\$42,000	Split 50% to each owner
Residential Improvement	\$82,000	Owned and occupied by Mr. Smith
Homeowner's Exemption	\$51,500	For Mr. Smith
Residential Improvement	\$67,000	Owned and occupied by Mr. Anderson
Homeowner's Exemption	\$44,000	For Mr. Anderson

(3-31-22)

**c.** Example 3. Tom Johnson and Marie Johnson, husband and wife, and June Smith jointly own a property and occupy one (1) residential improvement located on the property. The following example shows how to calculate each homeowner's exemption.

Description	Value	Notes
Land	\$95,000	
Residential Improvement	\$215,000	

Description	Value	Notes
Land and Improvement	\$310,000	
Prorated ownership interest (land and improvement)- (\$310,000 X 50%)	\$155,000	Mr. & Mrs. Johnson's interest
Homeowner's Exemption Maximum for 2010- (\$100,000 X 50%)	\$50,000	Mr. & Mrs. Johnson's Homeowner's Exemption
Prorated ownership interest (land and improvement)- (\$310,000 X 50%)	\$155,000	Ms. Smith's interest
Homeowner's Exemption Maximum for 2017- (\$100,000 X 50%)	\$50,000	Ms. Smith's Homeowner's Exemption

(3-31-22)

~~d.~~ Example 4. John and Susan Doe, husband and wife, and Mike Person jointly own a property, and Mr. and Mrs. Doe occupy the one (1) residential improvement located on the property. The following example shows how to calculate each homeowner's exemption.

Description	Value	Notes
Land	\$65,000	
Residential Improvement	\$195,000	
Land and Improvement	\$260,000	
Prorated ownership interest (land and improvement)- (\$260,000 X 50%)	\$130,000	Mr. & Mrs. Doe's interest
Homeowner's Exemption (Maximum for 2017 is 50%- up to \$100,000)	\$65,000	Mr. & Mrs. Doe's Homeowner's Exemption
Prorated ownership interest (land and improvement)- (\$260,000 X 50%)	\$130,000	Mr. Person's interest
Homeowner's Exemption	\$0	Mr. Person does not qualify for a home- owner's exemption on this property.

(3-31-22)

**043. Part Year Ownership.** For qualifying taxpayers who claimed the ~~homeowner's homestead~~ exemption on an eligible property, the homestead that qualified on January 1 of the current tax year will continue to receive the exemption, provided however, the assessor may remove that property's exemption if, ~~by April 15 of the tax year,~~ the taxpayer owns a different homestead and requests that the exemption be transferred to the second homestead. (3-31-22)(    )

**054. Determination of Residency.** The Tax Commission may release pertinent information from any Idaho income tax return to the county assessor and the county Board of Equalization for the sole purpose of providing one (1) indicator of eligibility for the ~~homeowner's homestead~~ exemption. According to Section 63-3077(4), Idaho Code, this information is confidential and is not subject to public disclosure. (3-31-22)(    )

**065. Notification of Erroneous Claims.** When it is determined that an exemption granted under this Section to a taxpayer who has also received property tax relief under Chapter 7, Idaho Code, should not have been granted, the county assessor will notify the Tax Commission of the determination. (3-31-22)(    )

**610. PROPERTY EXEMPT FROM TAXATION -- RESIDENTIAL IMPROVEMENTS -- SPECIAL SITUATIONS ~~(RULE 610)~~.**

Sections 63-602G, 63-701(2), Idaho Code

**01. Scope.** This rule addresses issues relating to the homeowner's homestead exemption as it applies to certain unusual factual situations. It states general principles applicable to unusual cases, ~~and provides some illustrative examples. The rule cannot address every conceivable situation that may arise, but~~ The principles established may apply to the resolution of situations not addressed in the rule. (3-31-22)( )

**02. Definitions.** The following definitions apply to this rule: ( )

**a. Dual Residency Couples.** ~~As used in this rule, "dual residency couple" means a husband and wife married couple, each of whom has established a different dwelling place as his or her their primary dwelling place as defined in Section 63-602G, Idaho Code, and Subsection 609.03 of these rules.~~ (3-31-22)( )

**b. Multidwelling or Multipurpose Building.** ~~"Multidwelling or Multipurpose Building" means a building which is the primary dwelling place of the owner and which has a portion used for any purpose other than the primary dwelling place of the owner.~~ (3-31-22)( )

**c. Related Land.** ~~"Related Land" means land, not to exceed one (1) acre, that is reasonably necessary for the use of the dwelling as a home.~~ (3-31-22)( )

**03. Dual Residency Couples -- General Principles.** ( )

**a.** Whether a particular residential improvement is an individual's primary dwelling place is a question of fact for each individual. Each spouse of a dual residency couple can maintain a separate primary dwelling place for purposes of the homeowner's homestead exemption. The test to be applied is the general test set out in Subsection 609.03 of these rules. (3-31-22)( )

**b.** If a residential improvement is community property, either ~~the husband or wife may exercise full management or control over it, except that neither the husband nor the wife can sell or encumber the property without the written consent of the other. Thus, either the husband or the wife spouse~~ can file an application for the homeowner's homestead exemption regarding community property on ~~his or her their~~ own authority. The signature of the other spouse is not required on the application. See Section 32-912, Idaho Code. (3-31-22)( )

**c.** Neither spouse is a partial owner of community property. (This principle is an exception to laws generally governing community property interests. It applies only for matters relating to the homeowner's homestead exemption or the circuit breaker property tax relief program. See Section 63-701(7) Idaho Code.) Thus, there is no authority to reduce the value of the improvement proportionally to reflect one (1) spouse's ownership in community property before determining the amount of the homeowner's homestead exemption. For purposes of the homeowner's exemption, a community property interest is treated the same as a full ownership interest. (3-31-22)( )

**d.** An owner may apply only once for the homeowner's homestead exemption. See Section 63-602G(c), Idaho Code. Thus, an application by one (1) spouse regarding a residential improvement that is community property, precludes the other spouse from making a second application on any other residential improvement whether held by the other spouse as community or separate property except as provided in Subsection 610.07. (3-31-22)( )

**04. ~~Example~~ Both Residences are Community Property.** (3-31-22)( )

**a.** Each member of a dual residency couple maintains his or her primary dwelling in a different residential improvement, each of which is owned by the couple as community property. Each applies for the homeowner's homestead exemption for the residence in which he or she resides. (3-31-22)( )

**b.** The first application is valid. Any subsequent application, though filed by the other spouse, is not valid because the couple can not make more than one (1) application. The homeowner's homestead exemption applies to the full value of the first residential improvement to qualify without any proportional reduction. The other

residential improvement does not qualify.

(3-31-22)( )

**05. Example—One Residence Is Community Property, the Other Is Separate Property.**

(3-31-22)( )

a. Each member of a dual residency couple maintains his or her primary dwelling in a different residential improvement. One (1) is owned by the spouse who resides in it as his or her separate property, the other is owned by the couple as community property. Each applies for the ~~homeowner's~~ homestead exemption for the residence in which he or she resides.

(3-31-22)( )

b. The first application is valid. Any subsequent application, though filed by the other spouse, is not valid. If the first application relates to the community property, it is an application on behalf of both members of the community. Thus, the other spouse can not file a second application relating to his or her separate property. If the first application relates to the separate property, then the subsequent application relating to the community property is a second application by the spouse owning the separate property and is not valid. The ~~homeowner's~~ homestead exemption applies to the full value of the first residential improvement to qualify without any proportional reduction. The other residential improvement does not qualify.

(3-31-22)( )

**06. Example—Both Residences are Separate Property.**

(3-31-22)( )

a. Each member of a dual residency couple maintains ~~his or her~~ their primary dwelling in a different residential improvement, each of which is owned by the spouse residing in it as ~~his or her~~ their separate property. Each applies for the ~~homeowner's~~ homestead exemption for the residence in which he or she resides.

(3-31-22)( )

b. Both residential improvements qualify for the full ~~homeowner's~~ homestead exemption. Neither application is a second application by the same owner. Each spouse is ~~a~~ the sole owner of the residential improvement, so the proportional reduction provisions for partial ownership do not apply.

(3-31-22)( )

**07. Apportionment of ~~Homeowner's~~ Homestead Exemption by Dual Residency Couples.** Both spouses of a dual residency couple may elect to equally apportion the ~~homeowner's~~ homestead exemption between the two (2) residential improvements if each files a written election with the county assessor of the county in which each property is located. When the election is made each residential improvement ~~will be~~ is entitled to one-half (1/2) of the exemption applicable to that property alone. The total exempted value of both properties will not exceed the amount of exemption available to the individual residential improvement with the greatest market value if no election were made.

(3-31-22)( )

**08. Multiple Ownerships Including Community Interests as Partial Owners.** A community property interest in a residential improvement is a partial ownership when combined with the ownership of another individual who is not a member of the marital community. For example, if a deed conveys title to real property to a ~~husband and wife~~ married couple and to an adult child of theirs, the ~~husband and wife~~ married couple hold a community property interest in the improvement and the child is a tenant-in-common provided ownership interests are not specified in the deed. The parents collectively hold a one-half (1/2) partial interest and the child holds a one-half (1/2) partial interest in the property. Ownership interests specified in the deed supersede this guidance. Qualification of the property for the ~~homeowner's~~ homestead exemption is as follows:

(3-31-22)( )

a. If the residential improvement is the primary dwelling of the ~~husband and wife~~ married couple but not the child, the ~~homeowner's~~ homestead exemption applies to one-half (1/2) of the value of the improvement.

(3-31-22)( )

b. If the residential improvement is the primary dwelling of the child, but not ~~of the husband or wife~~ either spouse, the ~~homeowner's~~ homestead exemption applies to one-half (1/2) of the value of the improvement.

(3-31-22)( )

c. If the residential improvement is the primary dwelling of the ~~husband, wife~~ married couple and child, the ~~homeowner's~~ homestead exemption applies to the full value of the improvement.

(3-31-22)( )

d. If the residential improvement is the primary dwelling of one (1) spouse but of neither the other

spouse nor the child, the ~~homeowner's homestead~~ exemption applies to one-half (1/2) of the value of the improvement unless the residential improvement of the other spouse has previously qualified for the ~~homeowner's homestead~~ exemption under the dual residency couple rules set out in Subsections 610.02 through 610.07. The one-half (1/2) qualification results from the statutory provision that a community property interest is not considered a partial interest of either spouse. See Paragraph 610.03.c. of this rule. (3-31-22)( )

e. If the residential improvement is the primary dwelling of one (1) spouse and the child, the ~~homeowner's homestead~~ exemption applies to the full value of the improvement unless the residential improvement of the other spouse has previously qualified for the ~~homeowner's homestead~~ exemption under the dual residency couple rules set out in Subsections 610.02 through 610.07. (3-31-22)( )

**09. Determining the Qualifying Portion of a Multidwelling or Multipurpose Building and the Related Land.** The portion of a Multidwelling or Multipurpose Building and Related Land used for the primary dwelling place of the owner qualifies for the ~~homeowner's homestead~~ exemption. When determining the value of the qualifying portion, the assessor will include the Related Land value. (3-31-22)( )

**611. VALUE OF RESIDENTIAL PROPERTY IN CERTAIN ZONED AREAS (RULE 611).**  
Sections 63-602H, Idaho Code

**01. Residential Property.** Residential property that may qualify for the special valuation exemption provided in Section 63-602H, Idaho Code, may include land and residential improvements. Such property may be owner or non-owner occupied, but must have been in continuous residential use from the time zoning was changed to other than residential. If use of any portion of the property changes to other than residential, the property loses this exemption. ( )

**02. Qualifying Residential Improvements.** Qualifying residential improvements are those improvements categorized by the assessor as residential and not consisting of more than four (4) residential units within any qualifying structure. ( )

**612. PROPERTY EXEMPT FROM TAXATION -- MOTOR VEHICLES, RECREATIONAL VEHICLES, AND VESSELS PROPERLY REGISTERED (RULE 612).**  
Sections 49-123, 49-401, 49-402A, 49-422, 49-432, 49-445, 49-446, 63-602J, Idaho Code

**01. Definitions.** ( )

~~a. Motor Vehicle Defined.~~ Motor vehicle means any vehicle as defined in Section 49-123(2), Idaho Code, and any recreational vehicle as defined in Section 49-119(6), Idaho Code, and any personal property permanently affixed to any of those vehicles. (3-31-22)( )

~~02b.~~ Exempt Motor Vehicles. Except as provided in Subsection 612.03 of this rule, any motor vehicle, as defined in Subsection 612.01 of this rule, registered for any part of the previous year under Chapter 4, Title 49, Idaho Code, is exempt from property taxation under Sections 49-401 and 63-602J, Idaho Code. ( )

~~03c.~~ Taxable Vehicles. The following registered or permitted vehicles are taxable and not eligible for the exemption under Sections 49-401 and 63-602J, Idaho Code: ( )

~~a.i.~~ Any vehicle issued a permit in lieu of registration under Section 49-432, Idaho Code; and (3-31-22)( )

~~b.ii.~~ Any manufactured home registered under Section 49-422, Idaho Code. ( )

**042. Exempt Permanently Affixed Personal Property.** Except as provided in Subsection 612.05 of this rule, any personal property permanently affixed to any motor vehicle registered as described in Subsection 612.02 of this rule is part of that vehicle. Hence, that permanently affixed personal property is exempt from property taxation under Section 63-602J, Idaho Code. ( )

~~053.~~ **Taxable Personal Property.** The following personal property, not otherwise exempt under Chapter



6, Title 63, Idaho Code, is taxable and not eligible for the exemption under Section 63-602J, Idaho Code. ( )

a. Any personal property on, but not permanently affixed to, any motor vehicle registered as described in Subsection 612.02 of this rule. ( )

b. Any personal property on or affixed, permanently or otherwise, to any vehicle issued a permit in lieu of registration under Section 49-432, Idaho Code. ( )

c. Any personal property on or affixed, permanently or otherwise, to any utility trailer registered under Section 49-402A, Idaho Code. ( )

**064. Recreational Vehicles.** The owner of a recreational vehicle, as defined in Section 49-119(6), Idaho Code, must pay a recreational vehicle annual license fee as authorized by Section 49-445, Idaho Code, and as computed in accordance with Rule 020 of these rules in order to be exempt under Section 63-602J, Idaho Code. ( )

a. Recreational vehicles that qualify for licensing and registration and have paid the required registration fee by August 31 each year are eligible for the exemption provided in Section 63-602J, Idaho Code. The owners of recreational vehicles that do not qualify or have not paid the fee must be sent a valuation assessment notice for the recreational vehicle after the August 31 deadline. The assessment of the recreational vehicle is subject to cancellation as provided in Rule 020, provided any applicable registration fee is paid before the fourth Monday of November. ( )

b. The provisions of Paragraph 612.06.a. of this rule apply to a park model recreational vehicle unless it is determined by the assessor to: ( )

i. Be permanently attached to a foundation; or ( )

ii. Have an attached building addition; or ( )

iii. Have been substantially modified and no longer meet the definition of a park model recreational vehicle. ( )

**075. Taxable Real Property Associated with Vehicles.** Associated property, other than the vehicle itself, is taxable unless another exemption applies. ~~Examples include the land on which the vehicle is located, fences, buildings, and appurtenances.~~ Such property may be eligible for the exemption provided in Section 63-602G, Idaho Code, regardless of whether the vehicle is exempt as provided in Section 63-602J, Idaho Code. (3-31-22)( )

**613.-- 614. (RESERVED)**

**615. PROPERTY EXEMPT FROM TAXATION - CERTAIN INTANGIBLE PERSONAL PROPERTY (RULE 615).**  
Section 63-602L, Idaho Code

**01. Definitions.** ~~The following definitions apply to the exemption for certain intangible personal property.~~ (3-31-22)( )

a. Contracts and contract rights. ~~Contracts and contract rights~~ are enforceable agreements, which establish mutual rights and responsibilities, and rights created under such agreements. Contracts and contract rights do not include tax credits received by low-income housing properties under Section 42 of the Internal Revenue Code. (3-31-22)( )

b. Copyrights. ~~Copyrights are~~ rights granted to the author or originator of literary or artistic productions, by which he or she is invested with the sole and exclusive privilege of making, publishing or selling copies for a specified time. (3-31-22)( )

c. Custom computer programs. ~~Custom computer programs~~ means those programs defined in Section

63-3616, Idaho Code.

(3-31-22)( )

d. Customer lists. ~~Customer lists~~ are proprietary lists containing information about a business enterprise's customers. (3-31-22)( )

e. Franchises. ~~Franchises~~ are special privileges. (3-31-22)( )

f. Goodwill. ~~Goodwill~~ is the expectation of continued public patronage of a business. Goodwill is the ability of a business to generate income in excess of a normal rate due to such things as superior managerial skills, superior market position, favorable community and customer reputation and high employee morale. ( )

g. Licenses. ~~Licenses~~ are permissions to do acts, which are not allowed without such permissions. (3-31-22)( )

h. Method A. ~~Method A~~ is the method by which the value of exempt intangible personal property is excluded from the value of operating property by subtracting the market value of exempt intangible personal property from the market value of the operating property at the system level. (3-31-22)( )

i. Method B. ~~Method B~~ is the method by which the value of exempt intangible personal property is excluded from the value of operating property by subtracting the market value of exempt intangible personal property from the market value of the operating property at the state level. ( )

j. Method C. ~~Method C~~ is the method by which the value of exempt intangible personal property is excluded from the value of operating property by using valuation models which value only the non-exempt assets. (3-31-22)( )

k. Patents. ~~Patents~~ are grants from the government conveying and securing the exclusive right to make, use and sell inventions. (3-31-22)( )

l. Rights-of-way which are possessory only and not accompanied by title. ~~Rights-of-way, which are possessory only and not accompanied by title,~~ are easements by which grantees acquire only the rights to pass over or to access for installation or maintenance, without acquiring exclusive use of the rights-of-way. (3-31-22)( )

m. Trademarks. ~~Trademarks~~ are marks of authenticity, through which products of particular manufacturers or vendible commodities of particular merchants may be distinguished from those of others. (3-31-22)( )

n. Trade secrets. ~~Trade secrets~~ are formulas, patterns, compilations, programs, devices, methods, techniques or processes, deriving independent economic values from not being generally known by other persons who can obtain economic values from disclosure or use. Trade secrets are the subjects of efforts that are reasonable to maintain secrecy. (3-31-22)( )

**02. Tangible Property Value Not Affected by Intangible Personal Property Value.** The values of the exempt intangible personal properties will not affect the values of any tangible properties or the value of the attributes of any tangible properties, regardless of the role of the intangible personal properties in the use of the tangible properties. The exempt values will not include any values attributable to availability of a skilled work force, condition of surrounding property, geographic features, location, rights-of-way, accompanied by title, view, zoning, and attributes or characteristics of real properties. ( )

**03. Operating Property Election, Reporting and Methods.** The following apply to operating property for the identification of valuation methods to be used by the Tax Commission, election of Method A, Method B, or Method C by the property owners, reporting by owners and valuation using Method C. (3-31-22)( )

a. Identification of valuation methods. When the Tax Commission mails the blank Operators' Statements to the property owners, the Tax Commission will identify proposed changes in valuation methods compared to those relied on in the prior year. (3-31-22)( )

b. Election default. In the event of default of the taxpayer to make an election, the Tax Commission will use the method proposed in the notice accompanying the Operator's Statement. (3-31-22)( )

c. Election of exclusion method. When submitting the Operator's Statement, the owner has the right to elect the method for exclusion of the values of the exempt intangible personal properties from the operating property value. ( )

d. Amending Election. An owner may amend the elected method if written notice is received at least seven (7) business days prior to a hearing under Rule 407 of these rules. ( )

e. Reporting. The Tax Commission will consider the value and supporting data provided by the owners. If no supporting intangibles valuation information is provided by the owners, known exempt intangible personal property will be subtracted or will not be ~~impounded~~ included in the value. (3-31-22)( )

f. Valuation using Method C. When the owner elects Method C, the Tax Commission will give primary consideration to the cost less depreciation model, without regulatory adjustment, in valuing tangible personal property and non-exempt intangible personal property. Only if this model fails to produce market value of the tangible personal property and nonexempt intangible personal property, will the Tax Commission consider other appropriate valuation models. (3-31-22)( )

**04. Personal Property Reporting for Locally Assessed Property.** The exemption for custom software, contracts and contract rights ~~will be~~ is claimed by ~~scheduling~~ including such property on the owner's personal property declaration form. (3-31-22)( )

~~**05. Cross Reference.** For clarification of contracts and contracts rights, see Brandon Bay, Ltd. Partnership v. Payette County, 142 Idaho 681, 132 P.3d 438 (2006).~~ (3-31-22)

**616. (RESERVED)**

**617. AGRICULTURAL LAND VALUATION DEFINITIONS AND GUIDELINES.**  
Section 63-~~602K~~205C, Idaho Code

**01. Definitions.** ( )

a. ~~Actual Use Value of Agricultural Land.~~ The actual use value of agricultural land will be the landlord's share of net income per acre, capitalized by the annual rate required by Section 63-~~602K~~205C, Idaho Code, plus a component for the local tax rate. The Actual Use Value will be considered market value for assessment purposes. (3-31-22)( )

b. ~~Economic Rent.~~ Economic rent is the average gross income per acre received by a landlord from either a cash rent or crop share rental agreement. Only the rent solely attributable to the agricultural land is included in economic rent. (3-31-22)( )

c. Net Income (Rent). ~~Net income~~ is determined by deducting the landlord's share of all typical current expenses from economic rent per acre. (3-31-22)( )

d. Agricultural Area. is Aan identifiable geographical area of similar agricultural land. (3-31-22)( )

**02. Determination of Average Crop Rental Rates.** ( )

a. Determine the average per acre gross income from individual crop cash rents, whole farm cash rents, or crop share typical to the Agricultural Area over the immediate past five (5) growing seasons as reported by local farmers. ( )

b. If data from local farmers is insufficient, data typical to the Agricultural Area from third party providers, such as the United States Department of Agriculture (USDA), University of Idaho Crop Enterprise

Budgets, or similar sources, may be used. ( )

c. The choice to use cash rent or crop share analysis in determining the taxable value of agricultural land should be predicated on the quantity and quality of data available when developing a supportable value conclusion. ( )

**03. Determination of Farm Credit Services Capitalization Rate.** ( )

a. The Tax Commission will gather the interest rate data from the Spokane office of the Farm Credit Services, ~~and~~ average the rate over the immediate past five (5) years and distribute the rate annually to assessors by the second Monday in September. (3-31-22)( )

b. The local tax rate component is the rate most applicable to the Agricultural Area. ( )

c. The local tax rate will be added to the Farm Credit Services capitalization rate to develop the overall capitalization rate. ( )

**04. Calculation of Net Income from a Cash Rent Analysis.** Net Income from cash rent for land secondary categories 1 and 3 is calculated in the following manner: ( )

a. Crops Grown. Determine the crops typically grown in the area. ( )

b. Economic Rent. Determine the average per acre gross income from individual crop rents or whole farm cash rents typical to the Agricultural Area over the immediate past five (5) years. ( )

c. Landlord's Expenses. Determine the landlord's share of all typical expenses paid in the immediately preceding growing season. ( )

d. Landlord's Net Income. Subtract the landlord's share of all typical expenses from the average gross income per acre for the immediately preceding year to determine net income. ( )

**05. Calculation of Net Income from a Crop Share Analysis.** Net income from crop share rent for secondary land categories 1 and 3 is calculated in the following manner: ( )

a. Crops Grown. Determine the crops typically grown in the Agricultural Area. ( )

b. Average Crop Production. Determine the most recent five (5) year average production for typical crops grown in the Agricultural Area. ( )

c. Average Commodity Prices. The Tax Commission will publish five (5) year average crop prices by surveying publicly available data from various sources, including the annual crop summary published by the USDA National Agricultural Statistics Service (NASS). Average crop prices determined in this manner by the Tax Commission should be considered guidelines when determining net income, subject to modification based on local market data. ( )

d. Gross Income. Multiply average crop production per acre by the average commodity price to determine gross income per acre. ( )

e. Landlord's Share of Gross Income. Determine the landlord's share of gross income per acre from a crop rotation typical to the Agricultural Area. ( )

f. Landlord's Expenses. Determine the landlord's share of all typical expenses paid in the immediately preceding growing season. ( )

g. Net Income. Subtract the landlord's share of all typical expenses from the landlord's share of gross income to determine net income. ( )

**06. Calculation of Grazing and Meadow Land Net Income.** Net income from grazing and meadow rent for land secondary categories 2, 4, and 5 is calculated in the following manner. ( )

**a.** Animal Unit Month (AUM) Defined. An AUM consists of the amount feed for a one thousand (1,000) pound cow-calf pair or other animal equivalent for one month. ( )

**b.** Determine the gross yearly income of an AUM by multiplying the five (5) year average of locally reported rent per AUM or third-party provider equivalent by the average number of months of the grazing season. ( )

**c.** Divide the total acres grazed by the total number of cow-calf pairs, or other animal equivalent, to determine the number of acres making up an AUM. ( )

**d.** Divide the income per AUM by the number of acres per AUM to determine a gross annual income per acre. ( )

**e.** Subtract landlord's typical expenses from the immediately preceding year to determine net income per acre. ( )

**07. Calculation of Value Estimate per Acre to be used for Categories 1-5.** Divide the Net Operating Income by the overall capitalization rate to calculate a value estimate per acre. ( )

**08. Cross Reference.** ~~For eligibility criteria, see Rules 645; for compliance standards, see and Rule 131 of these rules.~~ ~~(3-31-22)( )~~

**618. COMPUTATION OF THE IDAHO IRRIGATION EXEMPTION ~~(RULE 618)~~.**  
Section 63-602N, Idaho Code

**01. Production and Delivery Ratio.** This ratio is computed by comparing the Idaho investment in production and delivery property to the investment for all Idaho unitary property. The resulting ratio will be known as the production and delivery ratio. ( )

**02. Idaho Production and Delivery Value.** This is computed by multiplying the allocated Idaho unitary value, before any exemptions, by the production and delivery ratio. ( )

**03. Irrigation Use Ratio.** This ratio is computed by comparing Idaho irrigation revenue to the total Idaho revenue from unitary operations. The resulting ratio will be known as the irrigation use ratio. ( )

**04. Idaho Irrigation Exemption.** This is computed by multiplying the Idaho production and delivery value by the irrigation use ratio. ( )

**619. PROPERTY EXEMPT FROM TAXATION -- FACILITIES FOR WATER OR AIR POLLUTION CONTROL ~~(RULE 619)~~.**  
Section 63-602P, Idaho Code

**01. Exempt Property.** Only ~~these~~ portions of installations, facilities, machinery, or equipment ~~which are~~ devoted exclusively to elimination, control, or prevention of water or air pollution are exempt. ~~The owner of the property will annually apply for exemption.~~ ~~(3-31-22)( )~~

**02. Calculation of Partial Exemption.** The exemption ~~will~~ does not include the percentage of the value for any portion of the facility ~~which is~~ used for the production of marketable by-products. The exempted value is the difference between the market value of the pollution control facilities and the present value of the net income from the sale of by-products. Net income ~~will be~~ is determined by subtracting the expenses of sale, raw materials required to produce by-products, and transportation to F.O.B. point from gross sales of recovered by-product. ~~(3-31-22)( )~~

**03. Ineligibility.** Landfills, toxic waste dumps, or storage facilities deriving revenue from processing or

storing pollution or pollution by-products generated by other persons or businesses are ineligible for this exemption. ( )

**04. Filing Procedure.** Application for exemption ~~will be~~ is made annually in the following manner: (3-31-22)( )

**a.** The property owner ~~may~~ obtains the application form issued by the Tax Commission from the county assessor or the Tax Commission. (3-31-22)( )

**b.** The property owner completes the application ~~to~~ reporting an itemized listing of all installations, facilities, machines or equipment qualifying for exemption. Each component part of the system must be identified by a brief description ~~(e.g., Dust Collector)~~, the date of original acquisition, dollar amount of the original cost, and the percentage of the component devoted exclusively to pollution control. The application must be signed by the owner or duly authorized agent. Lack of required information ~~will~~ may be grounds for denial. (3-31-22)( )

**c.** The completed application must be filed with the county commissioners by April 15 for locally assessed property or with the Tax Commission by April 30 for centrally assessed property. (3-31-22)( )

**05. Inspection.** The county or Tax Commission representative may inspect the property or audit the owner's records to identify components for which the exemption ~~has been~~ is applied. Those components listed on the application must be identifiable as capital assets of the property. (3-31-22)( )

**06. Exemption Reported on Abstracts.** For locally assessed property, exempt value ~~will be~~ is reported on the property abstracts. (3-31-22)( )

**07. Exemption for Portion of Water Corporation Property.** A portion of water corporation property may be exempt from taxation. ( )

**a.** On or before April 30, each year, the Tax Commission will receive a notice from the Idaho Public Utilities Commission listing the value of the investment percentage of the total plant of each water company ~~that is~~ devoted exclusively to the elimination, control, or prevention of water pollution or air pollution. (3-31-22)( )

**b.** In estimating the market value of the company for assessment purposes, the Tax Commission will take into consideration the investment as certified by the Public Utilities Commission that such equipment bears to the total invested plant of the company. (3-31-22)( )

**c.** The Tax Commission will notify the water company of the estimated market value, gross assessed value, and the amount of exemption allowed under Section 63-602P, Idaho Code, on or before July 15. (3-31-22)( )

**d.** Any person or party wishing to contest the percentage of exemption reported to the Tax Commission by the Public Utilities Commission may submit a written request for a public hearing to the Tax Commission by August 1 of the current tax year. The request for a hearing will state the petitioner's grounds for contesting the percentage reported by the Public Utilities Commission. On or before the second Monday of August the Tax Commission will notify the petitioner of the hearing time and place. (3-31-22)( )

**620. EXEMPTION FOR NEVER OCCUPIED RESIDENTIAL IMPROVEMENTS ~~(RULE 620)~~.**  
Section 63-602W, Idaho Code

**01. Qualifying Residential Improvements.** Residential improvements to any land parcel that ~~are residential and~~ have never been occupied for residential purposes may qualify for the exemption pursuant to Section 63-602W, Idaho Code. ~~This rule is effective January 1, 1998. Such~~ qualifying improvements ~~can include the following:~~ (3-31-22)( )

**a.** Single family residences, residential townhouses, and residential condominiums; and ( )

**b.** Attached or unattached ancillary structures ~~which are~~ not intended for commercial use and ~~are~~

constructed contemporaneously with the improvements identified in Paragraph 620.01.a. Such structures may include sheds, fences, swimming pools, garages, and other similar improvements, subject to the limitations of Subsection 620.02. (3-31-22)( )

**02. Non-Qualifying Improvements.** Never previously occupied residential improvements listed in the following Subsections that do not qualify for this exemption: (3-31-22)( )

**a. Location.** Ancillary structures (see Paragraph 620.01.b.) that are not located on the parcel on which the improvement is located, identified in Subsection 620.01.a. of this rule, will not qualify for the exemption provided pursuant to Section 63-602W, Idaho Code. (3-31-22)( )

**b. Remodeled improvements.** Remodeling of previously occupied residential improvements does not qualify for the exemption. (3-31-22)( )

**c. Improvements included in land value.** Improvements included in land value, such as septic tanks, wells, improvements designed to provide utility services or access, and other similar improvements will not qualify for the exemption. (3-31-22)( )

**621. -- 624. (RESERVED)**

**625. HOMEOWNERS HOMESTEAD EXEMPTION ON OCCUPANCY TAX ROLL (RULE 625).**  
Sections 63-317, 63-602G, Idaho Code

**01. Eligibility for Multiple Exemptions.** Obtaining the exemption in Section 63-602G, Idaho Code, will does not preclude a property owner from eligibility for the exemption granted by Section 63-317, Idaho Code. More than one (1) property may be eligible for this exemption provided that if ownership and occupancy of the properties occurs at different times during the year and application is made on the owner's primary residence. (3-31-22)( )

**02. Separate Applications.** The application for this exemption may substitute for the application required by Section 63-602G, Idaho Code. ( )

**626. PROPERTY EXEMPT FROM TAXATION -- CERTAIN PERSONAL PROPERTY (RULE 626).**  
Sections 63-105(A), 63-201, 63-302, 63-308, ~~63-313~~, 63-602Y, 63-602KK, Idaho Code

**01. Locally Assessed Property - Application Required. ( )**

**a.** The taxpayer must file filing of one (1) or more of the lists of taxable personal property as required by Section 63-302, ~~Section 63-313~~, or Section 63-602Y, Idaho Code, constitutes application if the total market value of the property to be listed is greater than ~~one hundred thousand dollars (\$100,000)~~. The filing of said list(s) will constitute the filing of an application for exemption. For purposes of reporting personal property, the value is to be based on market value, not book value two hundred fifty thousand dollars (\$250,000). (3-31-22)( )

**b.** Taxpayers establishing initial eligibility for the exemption provided in Section 63-602KK(2), Idaho Code, may, in lieu of a list, file only an application attesting to ownership of otherwise taxable personal property having a cost of ~~one hundred thousand dollars (\$100,000)~~ two hundred fifty thousand dollars (\$250,000) or less. ~~In providing such cost, newly acquired personal property items acquired at a price of three thousand dollars (\$3,000) or less, that are exempt pursuant to Section 63-602KK(1), Idaho Code, will not be included.~~ The application must be filed no later than April 15th of the first year for which the exemption is claimed. (3-31-22)( )

**02. Locally Assessed Property - Taxpayers' Election of Property Location. ( )**

**a.** Multiple Locations Within A County. In cases where the taxpayer has personal property located in multiple places within the county, the taxpayer may elect the location of the property to which the exemption will apply by filing the "Idaho Personal Property Exemption Location Application Form" available from the Tax Commission ~~(Commission)~~ for this purpose. To make the election for property required to otherwise be listed as provided in Section 63-302, Idaho Code, the form must be filed with the county assessor by April 15. For taxpayers

with personal property required to be listed as provided in Sections ~~63-602Y and 63-313~~, Idaho Code, any application specifying the location of the property to which the exemption provided for in Section 63-602KK(2) will apply, must be filed by the ~~dates specified for filing the lists required by these Sections~~ first Monday in November. Should the taxpayer not make an election as to where to apply the exemption, the county will have discretion regarding the property to which the exemption will apply. However, to the extent possible and assuming the assessor is not aware of any changes in eligibility, the exemption ~~will be~~ first applied s to the same property ~~to which it applied~~ as in the immediate prior year. (3-31-22)(    )

b. Multiple locations in different counties. ~~The one hundred thousand dollar (\$100,000) limit on the exemption applies to a taxpayer's otherwise taxable personal property within any county.~~ If the taxpayer owns qualifying personal property in more than one county, the limit is ~~one hundred thousand dollars (\$100,000)~~ two hundred fifty thousand dollars (\$250,000) in market value per county. (3-31-22)(    )

**03. Centrally Assessed Property - Application Required. ( )**

a. Except for private railcar fleets, the taxpayer may file a list of personal property located in Idaho with the operator's statement filed pursuant to Rule 404 of these rules. The filing of such a list will constitute the filing of an application for this exemption. Except as provided in Subsections 626.03.b. and 03.c. of this rule, for such personal property to be considered for the exemption, the operator's statement must include: ( )

i. A description of the personal property located in Idaho; ( )

ii. Cost and depreciated cost of the personal property located in Idaho. ( )

b. For private railcar fleets subject to assessment by the Tax Commission, the Idaho taxable value ~~will be is~~ reduced by subtracting the lesser of the Idaho taxable value before the exemption or the product of ~~one hundred thousand dollars (\$100,000)~~ two hundred fifty thousand dollars (\$250,000) times the number of counties in Idaho in which the fleet operates. Provided that the remaining taxable value is five hundred thousand dollars (\$500,000) or more, this value is to be apportioned to each taxing district and urban renewal revenue allocation area in accordance with procedures described in Rule 415 of these rules. (3-31-22)(    )

c. After subtraction of the personal property exemption calculated as provided in Subsection 626.03.b. of this rule, for private railcar fleets subject to assessment by the Tax Commission, and having an Idaho taxable market value of less than five hundred thousand dollars (\$500,000), neither the final amount of the exemption nor the taxable value of the fleet ~~will be is~~ subject to apportionment, and the remaining taxable value ~~will be is~~ taxed as provided in Rule 415 of these rules. (3-31-22)(    )

d. When operating property companies have locally assessed property, any exemption pursuant to Section 63-602KK(2), Idaho Code must be applied to the locally assessed property first. In this case, the county assessor must notify the Tax Commission of the value of the exemption granted. If such an exemption is entered on the property roll, such notification must be made by the third Monday in July. The Tax Commission will then reduce the amount of the exemption otherwise to be granted to the centrally assessed operating property of the company by the exemption value reported by the assessor. The Tax Commission will notify the company of the reduction in exemption by the fourth Monday in July. ~~This reduction will be made before determining the company's Idaho taxable value. No additional exemption pursuant to Section 63-602KK(2), Idaho Code, will be granted for any locally assessed property of operating property companies.~~ (3-31-22)(    )

**04. Valuation Assessment Notice.** The valuation assessment notice required by Section 63-308, Idaho Code, must show the taxable market value before granting the exemption provided in Section 63-602KK(2), Idaho Code, the exempt market value pursuant to the exemption provided in Section 63-602KK(2), Idaho Code, and the net taxable market value of the personal property. ~~After the year of initial eligibility, i~~ If the net taxable market value is zero (0), no valuation assessment notice is required. (3-31-22)(    )

~~**05. Correction of Personal Property Tax Replacement Amounts.** If subsequent to finalization of the amount of replacement money to be paid to any county, an amount paid on behalf of any taxpayer is disapproved by the county, the county will so notify the Commission, which will adjust the payment to the county. The county may begin proceedings to recover any remaining excessive amounts paid on behalf of any taxpayer, pursuant to the~~



~~recovery procedures found in Section 63-602KK(7), Idaho Code.~~ (3-31-22)

**065. Limitation on Eligibility for the Exemption.** ( )

a. Except for taxpayers claiming and receiving the exemption provided for in Section 63-4502, Idaho Code, taxpayers receiving the personal property exemption provided in Section 63-602KK, Idaho Code, may be eligible for ~~and are not precluded from~~, other applicable exemptions. (3-31-22)( )

b. Personal property exempt in accordance with statutes other than Section 63-602KK, Idaho Code, will not be included in determining when the ~~one hundred thousand dollar (\$100,000)~~ two hundred fifty thousand dollars (\$250,000) limit provided in Section 63-602KK(2) is reached. (3-31-22)( )

c. Taxpayers with requirements to annually apply for, or list personal property for which other statutorily provided personal property exemptions are sought, must continue to comply with the requirements of these statutes. ( )

d. Improvements, as defined or described in Sections 63-201 and 63-309, Idaho Code, will not be eligible for the exemption provided in Section 63-602KK. Improvements ~~will be deemed to~~ include mobile and manufactured homes and float homes, regardless of whether such property is considered personal property. Leasehold real properties and other leasehold improvements that are structures or buildings ~~will be considered~~ are improvements, and therefore ineligible for the exemption. Structures, such as cell towers, are improvements and ~~therefore~~ are not ~~personal property~~ eligible for the exemption. (3-31-22)( )

**076. Special Rules for the Exemption Provided in Section 63-602KK(1), Idaho Code.** ( )

a. Newly acquired items of personal property, exempt as provided in Section 63-602KK(1), Idaho Code, are not to be reported require no application or inclusion on any list otherwise required pursuant to Sections 63-302, ~~or~~ 63-602Y, ~~and 63-313~~, Idaho Code. (3-31-22)( )

b. The exemption provided in Section 63-602KK(1), Idaho Code, is in addition to the ~~one hundred thousand dollar (\$100,000) per taxpayer, per county~~ exemption provided in Section 63-602KK(2), Idaho Code. (3-31-22)( )

~~e. No application for the exemption provided in Section 63-602KK(1), Idaho Code, is necessary.~~ (3-31-22)

~~d. The requirement in Section 63-602KK(6) requiring the assessor to provide the application by no later than March 1, applies only to taxpayers who have an obligation to file any application.~~ (3-31-22)

**087. Limitation on Replacement Money.** ( )

a. ~~In addition to replacement money reductions due to corrections as provided in Subsection 626.06 of this rule, there may be changes and reductions as follow:~~ (3-31-22)( )

i. If a taxing district dissolves, the state will make no payment of the amount previously certified for that district, and when an ~~an urban renewal district~~ revenue allocation area ~~dissolves~~ terminates and the urban renewal agency is no longer receiving any allocation of property tax revenues, the state will discontinue payment of amounts previously certified for that revenue allocation area, beginning with the next scheduled distribution. (3-31-22)( )

ii. If taxing districts or revenue allocation areas ~~within urban renewal districts~~ are consolidated, the amounts of replacement money attributed to each original district or revenue allocation area ~~will be~~ are summed and, in the future, distributed to the consolidated ~~taxing or urban renewal~~ district. (3-31-22)( )

iii. For replacement money based on the exemption provided by Section 63-602KK, Idaho Code, in 2013, no urban renewal district agency will receive replacement money based on exempt personal property within any revenue allocation area ~~(RAA)~~ established on or after January 1, 2013, or within any area added to an existing RAA revenue allocation area on or after January 1, 2013. (3-31-22)( )

~~iv.~~ For replacement money based on the exemption provided by Section 63-602KK, Idaho Code, in 2022, no urban renewal agency will receive replacement money based on exempt personal property within any revenue allocation area established on or after January 1, 2022, or within any area added to an existing revenue allocation area on or after January 1, 2022. ( )

~~iv.~~ Any payment made to the Idaho Department of Education, as provided in Subsection 626.098 of this rule ~~will be~~ is discontinued if the state authorized plant facilities levy is not certified in any year. Certification in subsequent years will not cause any resumption of this payment. (3-31-22)( )

~~b.~~ There will be no adjustment to replacement money if personal property not receiving the exemption found in Section 63-602KK(2), Idaho Code, receives this exemption in the future. (3-31-22)

~~098.~~ **Special Provision For Replacement Money For State Authorized Plant Facilities Levy.** The amount of replacement money calculated based on any 2013 or 2022 state authorized plant facilities levy ~~will be~~ is remitted directly to the Idaho Department of Education ~~for deposit to the Public School Cooperative Fund.~~ (3-31-22)( )

~~102.~~ **Special Provision For Exempt Personal Property Within Urban Renewal Revenue Allocation Areas (RAAs).** When personal property subject to the exemption in Section 63-602KK(2), Idaho Code, is within an RAA, ~~any adjustment will first be to the increment value, and there will be~~ is no adjustment to the base value of the RAA unless the remaining taxable market value of the parcel is less than the most current base value of the parcel. In that case, the base value ~~will be~~ is reduced. ~~The amount to be subtracted is to be determined on a parcel by parcel basis~~ in accordance with procedures found in Rule 804 of these rules. (3-31-22)( )

~~110.~~ **No Reporting of Exempt Value.** ~~Beginning in 2014,~~ Taxing district values submitted to the Tax Commission as required in Section 63-510, Idaho Code, will not include or indicate ~~the otherwise taxable~~ value exempt pursuant to Section 63-602KK(2), Idaho Code. (3-31-22)( )

~~121.~~ **Cross Reference.** ~~For information on transient personal property, see Rule 313 of these rules. For information on the definition of personal property, see Rule 205627 of these rules. For information on the definition of a taxpayer, see Rule 627 of these rules. For the purpose of this rule, "Taxpayer" means the claimant of the exemption pursuant to s~~Section 63-602KK(2), Idaho Code, and must be a person, as that term is defined in Section 63-201, Idaho Code. (3-31-22)( )

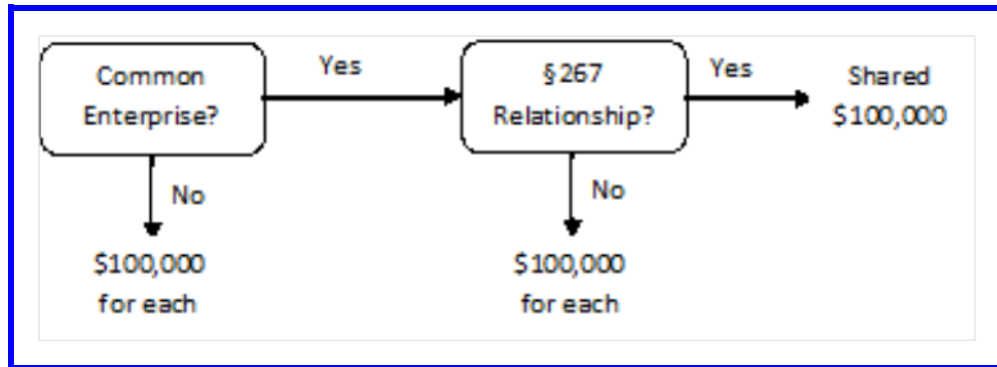
**627. PROPERTY EXEMPT FROM TAXATION -- CERTAIN PERSONAL PROPERTY – OWNERSHIP CLARIFICATION (RULE 627).**  
Section 63-602KK(2), Idaho Code

**01. Idaho Code Section 63-602KK(2) Provides Persons With One Exemption in Each Idaho County in Which They Meet the Ownership Rules.** ~~Although persons are limited to receiving one (1) exemption per county, a person owning more than one (1) business within one (1) county may be entitled to more than one (1) exemption within the county.~~ (3-31-22)( )

~~a.~~ Person means a trust or estate, a partnership, an association, a limited liability company or a corporation as described in Section 63-3005, Idaho Code. ( )

~~b.~~ Although persons are limited to receiving one (1) exemption per county, a person owning more than one (1) business within one (1) county may be entitled to more than one (1) exemption within the county.( )

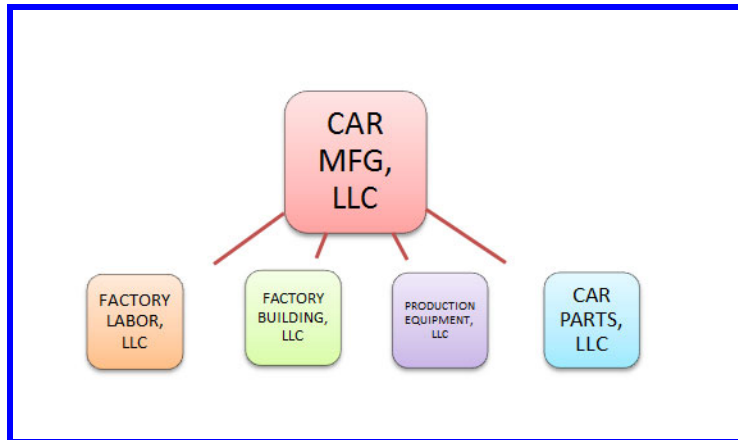
**02. Illustration of Common Enterprise and IRC Section 267 Restriction.** For purposes of the Idaho Code Section 63-602KK(2) exemption, a person includes two (2) or more individuals or organizations using the property in a common enterprise, and the individuals or organizations are within a relationship described in Section 267 of the Internal Revenue Code. When related parties have separate property in the same county, the exemption can only be claimed by one (1) person when both 627.02.a. and b. are met. This is illustrated in the following chart:



(3-31-22)( )

a. First, an analysis must be made to determine if a common enterprise exists. If entities or individuals are organized to manage a common scheme of business, they would be in a common enterprise. Entities or individuals organized to manage a common scheme of business, are considered to be in a common enterprise. (3-31-22)( )

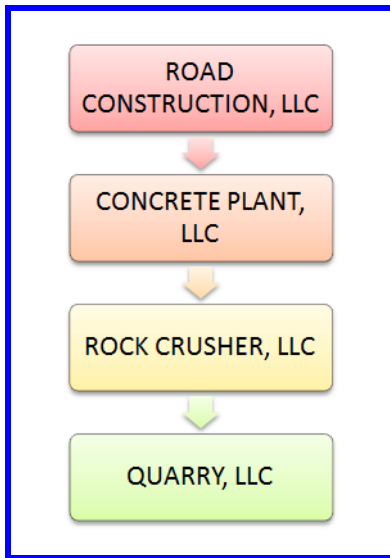
i. Horizontal Commonality is demonstrated by the following chart:



Here, the usual functions involved in a working car manufacturing company are split between several LLCs, all of which own the property involved with the functions they perform. The operation of the business is no different than if all the functions were combined in just Car Manufacturing, LLC

(3-31-22)

ii. Vertical Commonality is demonstrated by the following chart:



Here, a business operation is split so that each step in a process is designated to a different LLC. All the steps rely on the one below in order to produce the final product, or process.

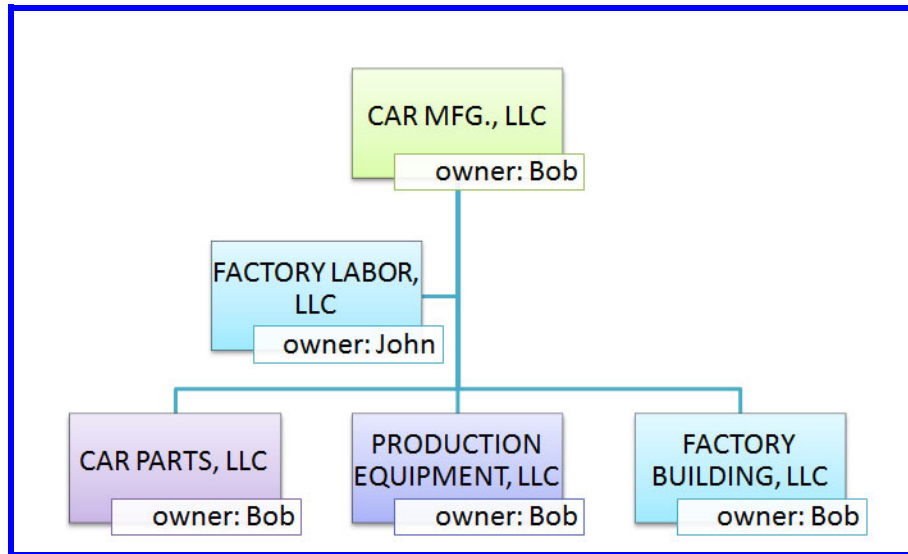
(3-31-22)

b. ~~Second, an analysis would be made to determine whether the ownership between the entities is within the relationships identified in Section 267 of the Internal Revenue Code. If such a relationship is found to exist, and the businesses are in a common enterprise, then the entities or individuals would be considered one (1) person for purposes of this exemption. A common enterprise having a relationship as defined by IRC Section 267 would be considered one (1) person for purposes of this exemption.~~ A common enterprise having a relationship as defined by IRC Section 267 would be considered one (1) person for purposes of this exemption. (3-31-22)( )

c. Ownership alone does not determine whether entities are ~~considered~~ one (1) person for purposes of this exemption. Two (2) businesses can have identical ownership, and each receive the exemption, ~~providing if~~ providing if they do not operate as a common enterprise. In addition, entities in a common enterprise can receive separate exemptions, ~~providing that if~~ providing that if their ownership ~~does not consist of a~~ is not relationship ~~is not~~ identified in Section 267 of the Internal Revenue Code. (3-31-22)( )

d. ~~The following examples are given to illustrate eligibility situations related to common enterprise and related ownerships:~~ For examples and illustrations see <https://tax.idaho.gov>. (3-31-22)( )

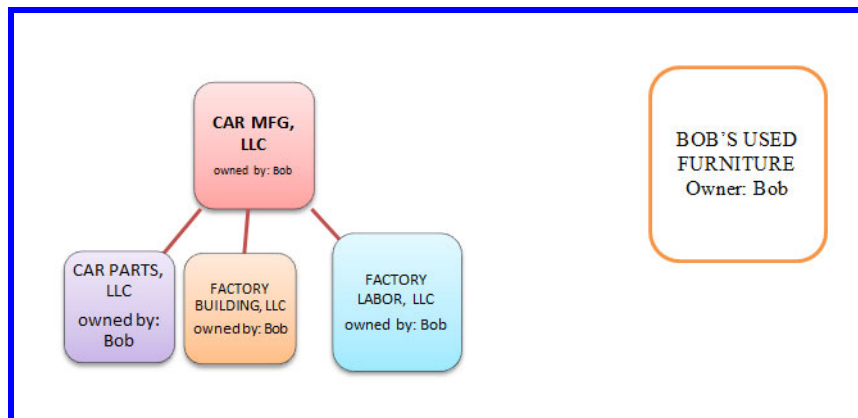
i. ~~Example 1. This is an example of a common enterprise, that is entitled to two (2) exemptions because the owners are not related in a manner as described in Section 267 of the Internal Revenue Code.~~



So long as Bob and John are not related in a manner identified in IRC 267, two (2) exemptions exist. One (1) for Factory Labor, LLC. The other for all of Bob's businesses, because they are in a common enterprise and are all owned by him.

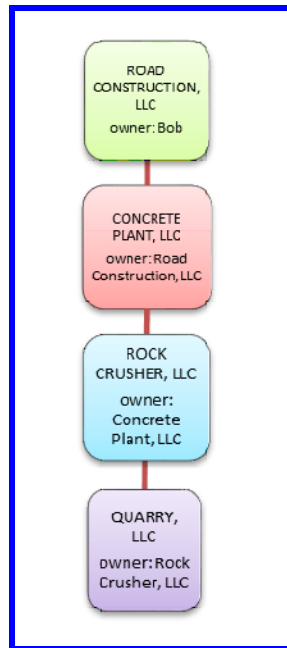
(3-31-22)

ii. Example 2. This is an example of the same owner with multiple businesses not all united in a common enterprise. Bob's car businesses are common enterprises, and therefore entitled to only one (1) exemption for all the car businesses. Bob's used furniture business is not involved with Bob's car businesses, so Bob is entitled to an additional exemption related to his used car business.



(3-31-22)

iii. Example 3. This is an example of multiple businesses being entitled to only one (1) exemption because a common enterprise exists and all the businesses are constructively owned in a manner identified in IRC 267.

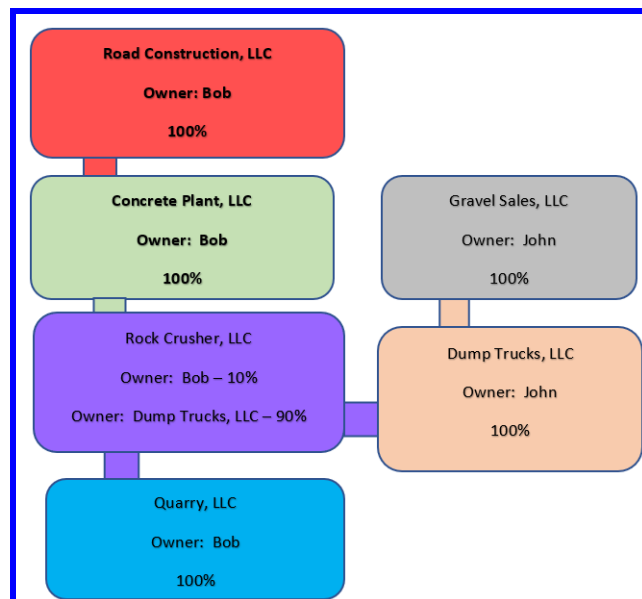


Here, one (1) exemption exists for all of the entities because they are in a common enterprise, due to their vertical commonality, and are all constructively owned by Bob, pursuant to IRC 267.

(3-31-22)

iv. Example 4. This is an example showing how owners of common enterprises may intersect.

(3-31-22)



This is an example of how common enterprises can intersect with one another. The companies Bob owns completely receive one exemption; John's companies also receive one exemption, including Rock Crusher, LLC, because John's ownership interest in that company falls within IRC 267.

(3-31-22)

~~e. In cases of partial ownership as noted in example four wherein Bob owns ten percent (10%) and Dump Trucks, LLC owns ninety percent (90%) only the majority owner is eligible to receive this exemption.~~

(3-31-22)

~~03. Cross Reference. For information on applying for the exemption provided in Section 63-602KK(2), Idaho Code, see Rule 626 of these rules.~~

(3-31-22)

**628. PARTIAL EXEMPTION FOR REMEDIATED LAND (RULE 628).**

Sections 63-602BB, 39-7203, 39-7204, 39-7207, Idaho Code

~~01. Definitions. For the purpose of implementing the partial exemption for remediated land the following terms are defined.~~

(3-31-22)( )

~~a. Application for Partial Exemption. The "application for partial exemption" is the form, provided by the Tax Commission, available from the Tax Commission or the county assessor and used to apply for the exemption provided by Section 63-602BB, Idaho Code.~~

(3-31-22)( )

~~b. Certificate of Completion. The "certificate of completion" is the document issued by the Department of Environmental Quality after the successful completion of a voluntary remediation work plan pursuant to Section 39-7207(1), Idaho Code. The person receiving the "certificate of completion" will record a copy of the "certificate of completion" with the deed for the "site" on which the remediation took place pursuant to Section 39-7207(2), Idaho Code.~~

(3-31-22)( )

~~c. Covenant Not to Sue. The "covenant not to sue" is the document issued by the Department of Environmental Quality pursuant to Section 39-7207(4), Idaho Code, upon request from a person receiving the "certificate of completion."~~

(3-31-22)( )

~~d. Qualifying Owner. The "qualifying owner" is the entity identified as the owner on the deed to the property at the time the "certificate of completion" is issued by the Department of Environmental Quality.~~

(3-31-22)( )

~~e. Remediated Land. The "remediated land" is the "site" on which the remediation, as defined in Section 39-7203(7), Idaho Code, has been completed.~~

(3-31-22)( )

~~f. Remediated Land Value. The "remediated land value" is the market value for assessment purposes of the land on January 1 of the year following the issuance of the "certification of completion" (after remediation) less the market value for assessment purposes of the land on January 1 prior to the issuance of the "certification of completion" (before remediation).~~

(3-31-22)( )

~~g. Site. As defined in Section 39-7203(8), Idaho Code, a "site" is a parcel of real estate for which an application has been submitted under Section 39-7204, Idaho Code. The "site" will be is that parcel identified on the application as described in IDAPA 58.01.18, "Idaho Land Remediation Rules," Subsection 020.02.e., including the assessor's parcel numbers(s) and on the voluntary remediation work plan as described in IDAPA 58.01.18, Section 022.~~

(3-31-22)( )

**02. Procedures to Qualify for the Exemption.** The "qualifying owner," or agent thereof, must complete the following procedures for the "site" to qualify for the exemption. ( )

a. Obtain and complete the "application for partial exemption." ( )

b. Submit the “application for partial exemption” and copies of the “certificate of completion” and the “covenant not to sue” to the county assessor of the county in which the “site” is located. ~~If the legal description of the “site” and a map identifying the location and size of facilities and relevant features is included in the information supporting the voluntary remediation work plan, pursuant to IDAPA 58.01.18, “Idaho Land Remediation Rules,” Subsection 022.03.a.i., a copy of this information will be included with the “application for partial exemption.”~~ (3-31-22)(    )

c. File the “application for partial exemption” with the county assessor on or before March 15 of the year for which the exemption is claimed. The “application for partial exemption” must be filed only once, during the first year of seven (7) year exemption period. (3-31-22)(    )

~~03. Calculation of the Exemption. The exemption is fifty percent (50%) of the “remediated land value.” This exempt value is constant throughout the term of the exemption. The amount of the exemption will never exceed the current market value of the land. (3-31-22)~~

~~04. Exempt Value Subject to Taxation. For any property eligible for the exemption provided by Section 63-602BB, Idaho Code, the exempt value will immediately be subject to taxation when any of the following events occur: (3-31-22)~~

~~a. If the “covenant not to sue” is rescinded during any year the exemption is in effect, the exempt value will immediately be subject to taxation for the entire year. Pursuant to IDAPA 58.01.18, Subsection 025.02, the Department of Environmental Quality will notify the assessor of the county in which the “site” is located that the “covenant not to sue” is rescinded. (3-31-22)~~

~~b. If the “site” is transferred to a new owner during any year in which the exemption is in effect, the exempt value will immediately be subject to taxation for the entire year. (3-31-22)~~

~~c. The seven (7) year exemption period expires. (3-31-22)~~

~~05. Sites Previously Granted the Exemption are Ineligible. No “site” will be granted the exemption provided in this section if said “site” had been previously granted this exemption regardless of whether the entire seven (7) years of the exemption had been used. (3-31-22)~~

**629. PROPERTY EXEMPT FROM TAXATION -- QUALIFIED EQUIPMENT UTILIZING POST CONSUMER OR POST INDUSTRIAL WASTE (RULE 629).**  
Section 63-602CC, Idaho Code

~~01. Qualified Personal Property. Only that qualified personal property, located in Idaho, which utilizes postconsumer waste or post industrial waste in the production of a “product,” will be exempt from taxation as personal property. The owner of the equipment will, annually, petition the assessor for exemption. (3-31-22)~~

~~021. Application. The exemption will be allowed only if the owner files the form prescribed by the Tax Commission, which reports for the previous calendar year, the actual time each piece of qualified equipment is in use in the production of qualified “product” and non-qualified “product.” The petition must be signed by the owner or duly authorized agent. (3-31-22)(    )~~

~~032. Exempt Petition’s Definitions Declaration. Petition for exemption will be filed in the following manner: (3-31-22)~~

~~a. Forms. Declaration forms for the reporting of personal property qualifying for exemption may be obtained from the county assessor or Tax Commission. (3-31-22)~~

~~b. Declaration—qualified equipment. The declaration will contain an itemized listing of all machinery or equipment qualifying for exemption. Each component part of the system must be identified by a brief description, the date of purchase and original cost, and the percentage of production time the component is devoted exclusively to the production of “product.” The petition must be signed by the owner or duly authorized agent. Lack of required~~



~~information will be grounds for denial. The completed declarations must be filed with the county assessor by March 15th of each year.~~ (3-31-22)( )

~~c. Declaration—non-qualifying equipment. The declaration will contain an itemized listing of all non-qualifying machinery or equipment used in the production of “product.” This declaration will list all non-qualifying taxable personal property as described in Section 63-302, Idaho Code.~~ (3-31-22)

~~d. Timing. The completed declarations must be filed with the county assessor by March 15th of each year.~~ (3-31-22)

~~e03. Inspection. The county or Tax Commission representative may inspect the property or the owner’s records to identify components petitioned for exemption. Those components listed on the declaration must be identifiable as qualifying personal property assets of the claimant.~~ ( )

**630. TAX EXEMPTION FOR NEW CAPITAL INVESTMENTS (RULE 630).**  
Section 63-4502, Idaho Code

**01. Notification of New Capital Investment – Locally Assessed Property.** ( )

~~a. Prior to receiving the benefit of the tax exemption, the taxpayer will notify the county in which the project site is located that the taxpayer expects to meet the criteria of the New Capital Investments Tax exemption. Notification will be is accomplished by submitting a written declaration or notification with the board of county commissioners containing the following information:~~ (3-31-22)( )

i. The name and address of the taxpayer; ( )

ii. A description of the new capital investment project; ( )

iii. The assessor’s parcel number(s) identifying the location of the project site; ( )

iv. The date that the qualifying period began; ( )

v. A statement that the taxpayer will make a qualified new capital investment of at least one billion dollars (\$1,000,000,000) within the qualifying period, ~~which will be specified.~~ (3-31-22)( )

~~b. The notification required hereunder may be submitted by the taxpayer to the board of county commissioners at any time after the qualifying period begins. However, if the notification is submitted after April 15 in a given year, a taxpayer may receive the benefit of the exemption only for tax years following the year in which the notification is filed. Submittal of the notification required hereunder will constitute application for the exemption in compliance with Section 63-602, Idaho Code. Until the taxpayer meets all the requirements for the New Capital Investments Tax exemption, for each year after the first year in which the exemption is granted, the notice must identify the name and address of the taxpayer and the location of the project site, but does not need to provide additional information as required in Paragraph 630.01.a. of this rule.~~ ( )

**02. Notification of New Capital Investment – Centrally Assessed Operating Property.** For taxpayers applying for the exemption for operating property subject to assessment by the Tax Commission, the taxpayer will provide notice to the Tax Commission no later than April 30 of the first year the exemption is sought, as part of the operator’s statement required pursuant to Section 63-404, Idaho Code, and Rule 404 of these rules, that the taxpayer expects to meet the criteria of the New Capital Investments Tax exemption. ( )

~~a. To be eligible for the exemption, information to be provided on the operator’s statement must include:~~ ( )

i. A description of the new capital investment project; ( )

ii. The location of the project site, including county and tax code area(s); ( )

iii. The date that the qualifying period began; ( )

iv. A statement that the taxpayer will make a qualified new capital investment of at least one billion dollars (\$1,000,000,000) within the qualifying period, ~~which will be specified.~~ (3-31-22)( )

b. The notification required hereunder may be submitted by the taxpayer to the Tax Commission at any time after the qualifying period begins. However, if the notification is submitted after April 30 in a given year, a taxpayer may receive the benefit of the exemption only for tax years following the year in which the notification is filed. Submittal of the operator's statement including notification information required hereunder will constitute application for the exemption in compliance with Section 63-602, Idaho Code. Until the taxpayer meets all the requirements for the New Capital Investments Tax exemption, for each year after the first year in which the exemption is granted, the notice must identify the location of the project site, but does not need to provide additional information as required in Paragraph 630.02.a. of this rule. ( )

**03. Notification of New Capital Investment – Taxpayers Applying on Behalf of both Locally and Centrally Assessed Property.** A taxpayer may apply for this exemption on behalf of both locally and centrally assessed property located in the same county. ( )

a. The taxpayer must comply with notice requirements in Subsection 630.01 of this rule for locally assessed property, and for centrally assessed property, the April 30 filing deadline found in Paragraph 630.02.b. ~~of this rule will apply.~~ (3-31-22)( )

b. Once the taxpayer notifies the Tax Commission as provided in Subsection 630.02 of this rule, the Tax Commission will notify the county commissioners and county assessor by the second Monday in May of the taxpayer's new capital investment project property to be locally assessed and of the taxpayer's filing an application for the exemption. By the later of the fourth Monday in July or the conclusion of the county board of equalization, as provided in Section 63-501, Idaho Code, the county clerk must provide to the Tax Commission a statement of the equalized assessed value of the taxpayer's locally assessed property. ( )

c. The exemption ~~will be~~ is granted by the Tax Commission, which will notify the county commissioners and taxpayer by the first Monday in September of the amount of the exemption and the remaining taxable value of the centrally assessed operating property of the taxpayer. This remaining value is to be calculated so that the sum of the centrally and locally assessed property of the taxpayer in the county in which the exemption is being granted does not exceed four hundred million dollars (\$400,000,000). (3-31-22)( )

d. The exemption will apply to the combined total value of the locally and centrally assessed property of the taxpayer within the county in which the project site is located. For continuation of the exemption for both locally and centrally assessed property, Subsections 630.07 and 630.08 of this rule will apply, and, upon satisfaction of the requirements therein, the Tax Commission will notify the county of the continuing exemption. ( )

**04. Property of the Taxpayer.** Property of a taxpayer includes all real, personal, or operating property that is owned by or leased to the taxpayer under an agreement that makes the taxpayer responsible for the payment of any property taxes on the property. ( )

**05. New Construction.** Property taxable under Section 63-4502, Idaho Code, and that qualifies for listing on the new construction roll as described by Section 63-301(A)3, Idaho Code, ~~should~~ may be listed on the new construction roll. (3-31-22)( )

**06. Failure to Make the Qualifying New Capital Investment.** ( )

a. If the taxpayer fails to make the qualifying new capital investment during the qualifying period, the property will lose the exemption granted by this section at the conclusion of the qualifying period. ( )

b. In the event that, at any time during the qualifying period, the taxpayer receiving the exemption for locally assessed property no longer intends to fulfill the qualified new capital investment requirements, the taxpayer must notify the county commissioners who will notify the county assessor. Upon receipt of such notification, the property previously granted the exemption ~~will become~~ is taxable for the remainder of the year in which the

notification is provided, pursuant to Section 63-602Y, Idaho Code. Failure of the taxpayer to provide such notice does not prevent the county assessor from discovering the taxpayer's intent through alternate procedures and then notifying the county commissioners that the requirements for the exemption are no longer met. In such an instance, the taxpayer must be notified and may appeal loss of the exemption to the county board of equalization as provided in Section 63-501A, Idaho Code. (3-31-22)( )

c. In the event that, at any time during the qualifying period, the taxpayer receiving the exemption for operating property no longer intends to fulfill the qualified new capital investment requirements, the taxpayer must notify the Tax Commission. Upon receipt of such notification, the property previously granted the exemption ~~will become~~ is taxable. If the notification is received before the Tax Commission has completed the assessment of the operating property for a given year, the exemption will not be granted for that year. If the notification is received after the assessment is completed, the exemption ~~will be~~ is rescinded beginning the following tax year. If the taxpayer owns centrally and locally assessed property, the Tax Commission will also notify the county commissioners and assessor of the rescinding of the exemption. (3-31-22)( )

**07. Continuation of Tax Exemption Following the End of the Qualifying Period – Locally Assessed Property.** ( )

a. At any time during the qualifying period, but not later than ninety (90) days after the conclusion of the qualifying period, the taxpayer must provide notice to the county commissioners with sufficient evidence to prove that the required qualifying new capital investment has been made. ( )

b. Once the taxpayer has successfully met all the requirements pursuant to Section 63-4502, Idaho Code, and provided notice to the county commissioners pursuant to Paragraph 630.07.a. of this rule, the county commissioners will notify the county assessor and taxpayer of the taxpayer's continuing qualification for the exemption for all years thereafter. The county assessor will retain this notice. ( )

c. After the year in which the taxpayer has been notified of continuing qualification as provided in Paragraph 630.07.b. of this rule, the taxpayer must continue to notify the county annually to identify the property to be exempted pursuant to Subsection 630.07. Failure to make such notification will not invalidate the exemption; the county assessor must then apply the exemption against the assessed value of the taxpayer's highest value parcel within the county. ( )

**08. Continuation of Tax Exemption Following the End of the Qualifying Period – Centrally Assessed Operating Property.** ( )

a. At any time during the qualifying period after the requirements for this exemption have been met, but not later than ninety (90) days after the conclusion of the qualifying period, the taxpayer must provide notice to the Tax Commission with sufficient evidence to prove that the required qualifying new capital investment has been made. ( )

b. Once the taxpayer has successfully met all the requirements pursuant to Section 63-4502, Idaho Code, and provided notice to the Tax Commission pursuant to Paragraph 630.08.a. of this rule, the Tax Commission will notify the taxpayer that the exemption will continue to be granted in perpetuity, and will notify the taxpayer annually prior to the due date for the operator's statement that they must identify the property qualifying for the exemption in these statements. Failure to provide either notification will not invalidate the exemption; the Tax Commission must then apply the exemption against the assessed value of the taxpayer's operating property within the county. Centrally assessed taxable property otherwise permitted to be included on the new construction roll ~~will be~~ is reported to the county assessor for inclusion on the next available new construction roll. (3-31-22)( )

**09. Cross Reference.** ~~For an explanation of the treatment of new construction relating to~~ See Sections 63-802 and 63-301A, Idaho Code, ~~see and~~ Rule 802 of these rules. (3-31-22)( )

**631. TAX EXEMPTION FOR INVESTMENT IN NEW OR EXISTING PLANT AND BUILDING FACILITIES UPON COUNTY COMMISSIONERS' APPROVAL (RULE 631).**  
Sections 63-201, 63-602NN, Idaho Code

**01. The Investment in Plant.** ~~In order to~~ To qualify for this exemption a taxpayer must invest at least the minimum required investment as established by county ordinance in new or existing plant or building facilities excluding the investment in land. (3-31-22)( )

a. Ordinance to establish the minimum required investment. The county commissioners must pass an ordinance to establish any minimum required investment amount of not less than five hundred thousand dollars (\$500,000). Once passed, any minimum so established will remain in place until superseded by another ordinance. ( )

b. Frequency of ordinances to establish minimum required investment. Any ordinance establishing a minimum required investment must remain in effect during the tax year in which it is first in effect. After that tax year, the county commissioners may provide a different required investment amount by passing a new ordinance. However, any agreement entered into under minimum investment criteria established by prior ordinance ~~will be is~~ effective for the duration of the exemption time period granted. (3-31-22)( )

**02. The Exemption.** The board of county commissioners may agree to exempt all or a portion of the value of non-retail commercial and industrial real property improvements and associated personal property that would otherwise be in excess of the base value for property designated as the defined project for a period of up to five (5) years. Real property improvements owned or leased, and personal property owned, by the taxpayer applying for the exemption may be granted the exemption. ~~Land is not eligible to be included in this exemption.~~ (3-31-22)( )

a. ~~Base value.~~ The base value is the taxable value, as ~~found~~ defined in Section 63-201(29), Idaho Code, and listed on the property roll, subsequent property roll, or missed property roll, of the property associated with the plant investment for the tax year immediately preceding the first year in which the exemption is to be granted. This includes the taxable value of existing buildings and personal property but not the taxable value of land. (3-31-22)( )

b. ~~Site improvements.~~ Site improvements, which may add value to land, but are not otherwise categorized as improvements for property tax purposes, are not eligible for this exemption. (3-31-22)( )

c. ~~Mixed-use properties.~~ Non-retail portions of any mixed-use building or structure otherwise used for commercial or industrial purposes may qualify. (3-31-22)( )

d. ~~Application.~~ Except as provided in Paragraph 631.02.f. with respect to occupancy tax, the taxpayer must make application by April 15 of the first year for which the exemption is sought. Such application must be made with the county commissioners who have complete discretion to accept or deny the application. (3-31-22)( )

e. ~~Agreement for exemption. The agreement granting the exemption will be considered a contract arrangement between the county and the taxpayer for the exemption time period as granted by the county commissioners, not to exceed five (5) years. The amount of exemption as provided by the agreement may be any amount related to taxable value added due to the investment, to the extent the property's total taxable value before considering the exemption exceeds the base value and the increase in value is not associated with or due to an increase in land value. The amount of exemption as provided by the contractual agreement of the county commissioners and the taxpayer may be any amount related to the taxable value added due to the investment above the base value.~~ (3-31-22)( )

f. ~~Occupancy tax.~~ As provided in Section 63-602Z, Idaho Code, the exemption may apply to property subject to occupancy tax. Granting of the exemption from occupancy tax will not reduce the period during which the property tax exemption provided in Section 63-602NN, Idaho Code, may be granted. The April 15 application deadline is not applicable to exemption from occupancy tax, which may be granted any time during the year. (3-31-22)( )

**03. Examples.** ~~The exemption applies only to plant or building facilities in which the required investment is to be made during the project period and that are located at the project site. The exemption may be applied to any value increases if these increases are directly attributable to the investment. See the following clarifying examples, all of which are based on the assumptions that the county has established five hundred thousand dollars (\$500,000) as the required minimum amount of investment and the county enters into an agreement with the~~

taxpayers for the period shown in the examples.

(3-31-22)

~~a. A company chooses your community to tear down an existing facility and build a new manufacturing facility. Prior to the project, the base value is four million dollars (\$4,000,000) which is comprised of the market value of the land three million dollars (\$3,000,000) and the market value of the existing facility at one million dollars (\$1,000,000), thus, the base value is one million dollars (\$1,000,000). After construction, the land and facility have a taxable value of thirteen million dollars (\$13,000,000), three million (\$3,000,000) of which is the land value. Providing all conditions of the agreement have been met and the commissioners agreed to a full exemption, the exempt amount will be nine million dollars (\$9,000,000).~~

(3-31-22)

~~b. An existing company chooses to expand and build a new processing line. Prior to the project, the base value of the existing building and land is twelve million dollars (\$12,000,000). After the expansion project is complete, the new processing line increased the value of the building and land to sixteen million dollars (\$16,000,000), with all of the increase in value attributed to the building. Providing all conditions of the agreement have been met and the commissioners previously agreed to a full exemption, the exempt amount will be four million dollars (\$4,000,000). No portion of the original taxable value of twelve million dollars (\$12,000,000) can be granted this exemption.~~

(3-31-22)

~~c. A company purchases an existing building and land which are valued at eight million dollars (\$8,000,000). The company will purchase new equipment in the amount of three million dollars (\$3,000,000). After the investment is made, the existing land, building and equipment are now valued at twelve million dollars (\$12,000,000). The additional one million dollars (\$1,000,000) in building value is attributed to the contributory value of the investment. The investment did not add value to the land. Providing all conditions of the agreement have been met and the commissioners agreed to a full exemption, the exempt amount will be four million dollars (\$4,000,000). No portion of the original taxable value of eight million dollars (\$8,000,000) can be granted this exemption.~~

(3-31-22)

~~d. A company buys a building with a prior year's value of one million dollars (\$1,000,000). The company makes application to the county commissioners requesting a full exemption for the next five (5) years for any increases in value that are directly related to its plan to invest in the facility. An agreement is reached whereby the taxpayer will be granted a limited exemption for the increase in market value up to two million dollars (\$2,000,000) for three years. In the first year, the company invests two million dollars (\$2,000,000) in the facility and the market value of the building increases to two million five hundred thousand dollars (\$2,500,000) (not all of the investment contributes to market value). Providing all conditions of the agreement have been met, the first year exempt amount will be one million five hundred thousand dollars (\$1,500,000). In year two (2), the company invests an additional eight hundred thousand dollars (\$800,000) and the value of the building increases to three million three hundred thousand dollars (\$3,300,000). The exemption in year two (2) will be two million dollars (\$2,000,000). This is the difference between the original base value of one million dollars (\$1,000,000) and the current value in year two (2), but is limited by the agreed upon two million dollar (\$2,000,000) maximum. In year three (3), the company makes additional investments and the building value increases to four million dollars (\$4,000,000). The exemption in year three (3) is limited to two million dollars (\$2,000,000) as provided in the original agreement. Beginning in year four (4), there will be no exemption allowed under the original agreement.~~

(3-31-22)

~~04. **Cross Reference.** See Rule 802 of these rules for instructions relating to the valuation of new construction.~~

(3-31-22)

**632. PROPERTY EXEMPT FROM TAXATION - OIL OR GAS RELATED WELLS (RULE 632).**

Section 63-60200, Idaho Code

**01. Definitions of Oil or Gas Well. ( )**

**a.** Wells drilled for the production of oil, gas or hydrocarbon condensate may include the well, casing, and other structures permanently affixed inside the well, and the land inside the perimeter of the well. ( )

**b.** The well will include the part where the gas producing stratum has been successfully cased off from any oil. ( )

**02. Ineligible Land and Equipment.** ( )

a. Wellheads and gathering lines or any line extending above ground level will not qualify. Equipment used for the extraction, storage, or transportation of oil, gas, or hydrocarbon condensate will not qualify. ( )

b. Land, other than that used for the well as defined in Subsection 632.01 of these rules, will not qualify. If the presence of the well increases the market value of nearby land, the assessed value of such land will reflect the increase, unless the land qualifies independently for any other property tax exemption. ( )

**633. -- 644. (RESERVED)**

**645. LAND ACTIVELY DEVOTED TO AGRICULTURE DEFINED ~~(RULE 645)~~.**  
Section 63-604, Idaho Code

**01. Definitions.** The following definitions apply ~~for the implementation of the exemption for the speculative value portion of~~ when agricultural land is assessed using the methods found in Section 63-205C, Idaho Code. (3-31-22)( )

a. ~~Homesite.~~ The “homesite” is that portion of land, contiguous with but not qualifying as land actively devoted to agriculture, and the associated site improvements used for residential and farm homesite purposes. (3-31-22)( )

b. ~~Associated Site Improvements.~~ The “associated site improvements” include developed access, grading, sanitary facilities, water systems, and utilities. (3-31-22)( )

c. ~~Nursery Stock.~~ Nursery stock is defined in Section 22-2302, Idaho Code. (3-31-22)( )

d. ~~Land Used to Produce Nursery Stock.~~ “Land used to produce nursery stock” means land used by an agricultural enterprise to promote or support the promotion of nursery stock growth or propagation, not land devoted primarily to selling nursery stock or related products. This term also includes land under any container used to grow or propagate nursery stock. This term does not include land used for parking lots or for buildings sites used primarily to sell nursery stock or related items or any areas not primarily used for the nurturing, growth or propagation of nursery stock. (3-31-22)( )

e. ~~Speculative Value Exemption.~~ The “speculative value exemption” is the exemption allowed on land actively devoted to agriculture. (3-31-22)

**02. Homesite Assessment.** ~~Effective January 1, 1999, each~~ The homesite, ~~and~~ residential improvement and other improvements, located on the homesite, will be assessed at market value each year. (3-31-22)( )

a. Accepted Assessment Procedures. Market value will be determined through procedures, methods, and techniques recommended by nationally recognized appraisal and valuation associations, institutes, and societies and according to guidelines and publications approved by the Tax Commission. Acceptable techniques include those that are either time tested in Idaho, mathematically correlated to market sales, endorsed by assessment organizations, or widely accepted by assessors in Idaho and other states. ( )

b. ~~Appropriate Market and Comparable Selection.~~ The appropriate market is the market most similar to the homesite and improvements located on the homesite. In applying the sales comparison approach, the appraiser should select comparables having actual or potential residential use. (3-31-22)( )

c. Homesite Independent of Remaining Land. The value and classification of the homesite will be independent of the classification and valuation of the remaining land. ( )

**03. Valuing Land, Excluding the Homesite.** The assessor will value land, excluding the homesite, on the following basis: ( )

a. Land Used for Personal Use or Pleasure. Any land, regardless of size, utilized for the grazing of

animals kept primarily for personal use or pleasure and not a portion of a for profit enterprise, will be valued at market value using appraisal procedures identified in Paragraph 645.02.a. of this rule ~~and will not qualify for the speculative value exemption.~~ (3-31-22)( )

**b.** Land in a Subdivision. Land in a subdivision with restrictions prohibiting agricultural use will be valued at market value using appraisal procedures identified in Paragraph 645.02.a. of this rule ~~and will not qualify for the speculative value exemption.~~ Land meeting the use qualifications identified in Section 63-604, Idaho Code, and in a subdivision without restrictions prohibiting agricultural use will be valued as land actively devoted to agriculture using the same procedures as used for valuing land actively devoted to agriculture and not located in a subdivision. ( )

**c.** Land, Five (5) Contiguous Acres or Less. Land of five (5) contiguous acres or less will be presumed non-agricultural, will be valued at market value using appraisal procedures identified in Paragraph 645.02.a. of this rule, ~~and will not qualify for the speculative value exemption.~~ If the owner produces evidence that each contiguous holding of land under the same ownership has been devoted to agricultural use for the last three (3) growing seasons and it agriculturally produced for sale or home consumption fifteen percent (15%) or more of the owner's or lessee's annual gross income or it produced gross revenue in the immediate preceding year of one thousand dollars (\$1,000) or more, the land actively devoted to agriculture, will ~~qualify for the speculative value exemption~~ be appraised using the appraisal methods found in Section 63-205C, Idaho Code. For holdings of five (5) contiguous acres or less gross income is measured by production of crops, nursery stock, grazing, or gross income from sale of livestock. Income will be estimated from crop prices at harvest or nursery stock prices at time of sale. The use of the land and the income received in the prior year must be certified with the assessor by April 15, each year. (3-31-22)( )

**d.** Land, More Than Five (5) Contiguous Acres. Land of more than five (5) contiguous acres under one (1) ownership, producing agricultural field crops, nursery stock, or grazing, or in a cropland retirement or rotation program, as part of a for profit enterprise, will qualify ~~for the speculative value exemption~~ to be assessed using the methods found in Section 63-205C Idaho Code. Land not annually meeting any of these requirements fails to qualify as land actively devoted to agriculture and will be valued at market value using appraisal procedures identified in Paragraph 645.02.a. of this rule. (3-31-22)( )

**04. Cross Reference.** ~~For definitions and general principles relating to the taxable value of land actively devoted to agriculture, see Rule 613 of these rules. For agricultural land taxable value calculation examples, see Rule 614 of these rules. For information relating to Christmas tree farms, other annual forest products, and yield tax, see Rule 968 of these rules.~~ (3-31-22)( )

**646. -- 699. (RESERVED)**

**700. DEFINITIONS FOR PROPERTY TAX REDUCTION BENEFIT (RULE 700).**  
Section 63-701, Idaho Code

**01. Blind.** A person for whom there exists the medically documented opinion that the person is functionally blind as defined in Section 67-5402(2), Idaho Code. ( )

**02. Burden of Proof.** See Rule 600 of these rules. (3-31-22)

**03. Claimant's Income.** All income defined in Section 63-701(5), Idaho Code, that is received by either spouse is included in household income even if one spouse lives in a medical care facility or otherwise lives outside the home except as provided in Rule 709 of these rules. For the purposes of excluding from claimant's income any return of principal paid by the recipient of an annuity, follow these guidelines. ( )

**a.** An annuity means a contract sold by an insurance company to the claimant or claimant's spouse and designed to provide payments to the holder at specified equally spaced intervals or as a lump sum payment with the following conditions: ( )

**i.** The annuity must not be part of any pension plan available to an employee; ( )

ii. No tax preference is given to the money spent to purchase the annuity ~~(purchase payments must not reduce the buyer's taxable income);~~ (3-31-22)( )

iii. The buyer ~~of the annuity~~ must have purchased the annuity voluntary and not as a condition of employment or participation in an employer provided pension system; and (3-31-22)( )

iv. Earnings from investments in the annuity must be tax-deferred prior to withdrawal. ( )

b. Annuities do not include KEOGH plans, Individual Retirement Accounts (IRAs), employer provided pensions, and similar financial instruments. Life insurance premiums will not be treated as the principal of an annuity. ( )

c. The recipient of the annuity payment(s) ~~the claimant or claimant's spouse, has the burden of proving~~ must provide proof that the income is the principal paid by the recipient. Such proof includes copies of the holder's annuity contract and any other documentation clearly indicating the conditions listed in Subparagraphs 700.032.a.i. through 700.032.a.iv. of this Rule are met. IRS form 1099 does not provide sufficient proof. (3-31-22)( )

**043. Fatherless/Motherless Child.** ~~Fatherless/Motherless child for purposes of Section 63-701(1), Idaho Code, m~~ Means a child judicially determined to be abandoned, as defined by Sections 16-1602 or 16-2005, Idaho Code, by the child's ~~male/female~~ parent or a child whose ~~male/female~~ parent has had his parental rights terminated pursuant to court order or is deceased. (3-31-22)( )

**054. Proportional Reduction of Value.** ~~Proportional reduction of value pursuant to Section 63-701(7), Idaho Code, i~~s required for partial ownership of otherwise eligible property. (3-31-22)( )

a. There is no reduction of value for community property with no other interests except as provided in Rules 610.07 and 709.04 of these rules. Additionally, there is no reduction in value for the ownership interests of a partner of a limited partnership, a member of a limited liability company or a shareholder of a corporation when that person has no less than a five percent (5%) interest in the entity unless any interests are shared by any entity other than the limited partnership, limited liability company or corporation. ( )

b. In other cases, benefits are to be calculated by applying the claimant's property tax reduction benefit to the eligible net taxable value of the claimant's share of the property. This value is determined by multiplying the market value of the land and ~~of~~ the improvement times the claimant's percent of ownership and subtracting the claimant's ~~homeowner's~~ homestead exemption. (3-31-22)( )

i. ~~Example 1. The claimant is the sole occupant of the property but only owns fifty percent (50%) of the property. In this example, the claimant's property tax reduction benefit applies to the tax on his/her net taxable market value of \$50,000.~~

Land Market Value	\$50,000
Improvement Market Value	\$150,000
Gross Market Value	\$200,000
Percent of Ownership of Claimant	50%
Claimant's Share of Land Market Value & Improvement Market Value (Land Market Value & Improvement Market Value x Percentage of Ownership)	\$100,000
Claimant's Homeowner's Exemption (Claimant's Share of Improvement and Land Market Value x 50%, not to exceed \$100,000)	<\$50,000>



Claimant's Eligible Net Taxable Value equals: Claimant's Share of Market Value less Homeowner's Exemption (\$100,000 - \$50,000 = \$50,000)	<b>\$50,000</b>
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(3-31-22)

ii. ~~Example 2. Tom Johnson and Marie Johnson, husband and wife, and property tax reduction claimant June Smith jointly own a property and occupy one (1) residential improvement located on the property. Calculate both homeowners' exemptions, and apply Ms. Smith's property tax reduction benefit to the tax on the net taxable value of her interest in the property.~~

Description	Value	Notes
Land	\$95,000	
Residential Improvement	\$215,000	
Land and Improvement	\$310,000	
Prorated ownership interest (land and improvement) (\$310,000 X 50%)	\$155,000	Mr. & Mrs. Johnson's interest
Homeowner's Exemption Maximum (100,000 X 50%)	\$50,000	Mr. & Mrs. Johnson's Homeowner's Exemption
Prorated ownership interest (land and improvement) (\$310,000 X 50%)	\$155,000	Ms. Smith's interest
Homeowner's Exemption Maximum (\$100,000 X 50%)	\$50,000	Ms. Smith's Homeowner's Exemption
Value of prorated interest less homeowner's exemption.	\$105,000	Ms. Smith's property tax reduction benefit is applied to the tax on the net taxable value.

(3-31-22)

~~c. See examples of proportional reduction of value of property tax reduction claimants at <https://tax.idaho.gov>.~~ ( )

~~065. Physician. Physician means a licensed physician, as Is defined in Section 54-1803(3), Idaho Code.~~ (3-31-22)( )

~~076. Widow/Widower. A widow/widower is a person who has not remarried after the death of their spouse or whose subsequent marriage has been annulled.~~ (3-31-22)( )

~~087. Cross Reference. See Chapter 79, Title 67, Idaho Code, for requirements relating to lawful presence in the United States. See IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules," Subsection 702.02.c. for information concerning authorization to release applicant information to a state or federal elected official.~~ ( )

**701. (RESERVED)**

**702. VETERAN'S BENEFIT – CONTINUED ELIGIBILITY AFTER DEATH OF CLAIMANT** ~~(RULE 702).~~  
 Sections 63-701, 63-705A, Idaho Code

~~01. Surviving Spouse. The veteran's benefit applies to the qualifying homestead, as defined in Section 63-701(2), Idaho Code, of the veteran and surviving spouse. The surviving spouse may not transfer the veteran's~~

benefit to a different homestead. (3-31-22)( )

**02. Application By Surviving Spouse.** The surviving spouse may file an application on behalf of the deceased spouse if the deceased spouse qualified or would have qualified as a claimant on January 1 or before April 15 of the year in which the claim is filed. ( )

703. -- 708. (RESERVED)

**709. PROPERTY TAX REDUCTION BENEFIT PROGRAM – SPECIAL SITUATIONS** (RULE 709).  
Section 63-701, Idaho Code

**01. Scope.** This rule addresses issues relating to the property tax reduction benefit program as it applies to certain unusual factual situations. It states general principles applicable to unusual cases and provides some illustrative examples. The rule cannot address every conceivable situation that may arise, but the principles established may apply to the resolution of situations not addressed in the rule. The following examples apply to qualified property tax reduction claimants. ( )

**02. General Principles.** Benefits under the property tax reduction program are only available to owners of property that have first qualified for the ~~homeowner's~~ homestead exemption under Section 63-602G, Idaho Code. See Rule 610 of these rules. (3-31-22)( )

**03. Dual Residency Couples.** The definition of ~~“dual residency couple”~~ in Rule 610.02 of these rules applies to this rule. (3-31-22)( )

**a. Example Case 1** -- Both residences are community property. Property tax reduction is available in regard only to the residential improvement qualifying for the ~~homeowner's~~ homestead exemption. See Rule 610.04 of these rules. (3-31-22)( )

**b. Example Case 2** -- One (1) residence is community property, the other is separate property. Property tax reduction is available in regard only to the residential improvement qualifying for the ~~homeowner's~~ homestead exemption. See Rule 610.05 of these rules. (3-31-22)( )

**c. Example Case 1** -- Both residences are separate property. Property tax reduction is available in regard to both residential improvements. See Rule 610.06 of these rules. (3-31-22)( )

**d. Household income.** In the three (3) ~~examples~~ cases in Subsection 709.03, the household income upon which qualification is determined is the total of one-half (1/2) the community income plus any separate income of the spouse residing in the residence. (3-31-22)( )

**04. Apportionment of Property Tax Reduction Benefits by Dual Residency Couples.** If a dual residency couple makes the election provided in Subsection 610.07 of these rules and the applicable county assessor provided the Tax Commission with a copy of the election required under that rule, each spouse ~~will be~~ is entitled to one-half (1/2) of the amount of any property tax reduction available to that spouse alone. The household income of the spouse ~~will be~~ is one-half (1/2) of the community income plus any separate income of the spouse residing in the residence. The total property tax reduction benefit will not exceed the amount of benefit available to the individual spouse with the least household income if no election were made. (3-31-22)( )

**05. Multiple Ownerships Including Community Interests as Partial Owners.** Example: A deed conveys title to real property to a ~~husband and wife~~ married couple and to an adult child of theirs. The ~~husband and wife~~ married couple holds a community property interest in the improvement and the child is a tenant-in-common, provided ownership interests are not specified in the deed. The parents collectively hold a one-half (1/2) partial interest and the child holds a one-half (1/2) partial interest in the property. Ownership interests specific in the deed supersede this guidance. For clarification of the calculation of the net taxable value, see Rule 700.05**4**.b. of these rules. Qualification for the property tax reduction is as follows: (3-31-22)( )

**a.** If the residential improvement is the primary dwelling of the ~~husband and wife~~ married couple but not of the child, the claimant qualifies for full benefits applied on one-half (1/2) of the value of the property less the

~~homeowner's homestead~~ exemption. Household income is the total of the community and separate income of the spouses. (3-31-22)(    )

b. If the residential improvement is the primary dwelling of the qualifying child, but neither ~~the husband or wife~~ spouse, the claimant qualifies for full benefits applied on one-half (1/2) of the value of the property less the ~~homeowner's homestead~~ exemption. Household income is the total of the child's income. (3-31-22)(    )

c. If the residential improvement is the primary dwelling of the ~~husband, wife~~ married couple and a qualifying child, the claimant qualifies for the full benefits applied on full value of the property less the ~~homeowner's homestead~~ exemption. Household income is the total of the community and separate income of the spouses and the income of the child. (3-31-22)(    )

d. If the residential improvement is the primary dwelling of one (1) spouse but of neither the other spouse nor the child, the claimant qualifies for full benefits applied on one-half (1/2) of the value of the property less the ~~homeowner's homestead~~ exemption unless the residential improvement of the other spouse has qualified for the ~~homeowner's homestead~~ exemption. Household income is the total income of both spouses. (3-31-22)(    )

e. If the residential improvement is the primary dwelling of one (1) spouse and a qualifying child, the claimant qualifies for the full benefits applied on the full value of the property less the ~~homeowner's homestead~~ exemption unless the residential improvement of the other spouse has previously qualified for the ~~homeowner's homestead~~ exemption. Household income is the total income of both spouses plus the income of the child. (3-31-22)(    )

**710. -- 716. (RESERVED)**

**717. PROCEDURE AFTER CLAIM APPROVAL (~~RULE 717~~).**  
Sections 63-115, 63-317, 63-707, Idaho Code

**01. Formatting Requirements.** The property tax reduction roll and supplemental occupancy tax reduction roll ~~will be is~~ formatted as required by Section 63-707, Idaho Code. (3-31-22)(    )

**02. Preliminary Property Tax Reduction Roll.** Except as provided in Subsections 717.06 and 717.07 of this rule, the roll, certified by the assessor to the county auditor and the ~~State~~ Tax Commission by June 1st of each year, ~~will be is~~ termed the preliminary property tax reduction roll. List the property tax reduction and occupancy tax reduction claimants on ~~the preliminary property tax reduction and occupancy tax reduction rolls will list property tax reduction and occupancy tax reduction claimants~~ in alphabetical order unless the Tax Commission grants permission for claimants to be listed in an alternate order. Submit ~~Each~~ original claim form ~~will be submitted~~ to the Tax Commission in the same order as shown on the preliminary property tax reduction roll. (3-31-22)(    )

**03. Final Property Tax Reduction Roll.** Except as provided in Subsections 717.06 and 717.08 of this rule, the completed property tax reduction roll, certified by each county clerk to the Tax Commission by the fourth (4th) Monday in October, ~~will be is~~ termed the final property tax reduction roll. The final property tax reduction roll will list property tax reduction ~~claimants~~ and occupancy tax reduction claimants who applied by September 1, in the same order as shown on the preliminary property tax reduction roll. The Tax Commission will notify the county auditor of any ~~Erroneous claims which are partially or fully disapproved by the Tax Commission will be shown on the final property tax reduction roll after the county clerk has made all adjustments or corrections listed on the notice sent to the county auditor by the second Monday of October pursuant to Section 63-707(6), Idaho Code, termed county change letter. The county clerk will make any necessary corrections, adjustments and include erroneous claims disapproved by the~~ Tax Commission on the final property tax reduction roll. (3-31-22)(    )

**04. Certification of Electronic Property Tax Reduction Roll by County Assessor.** The county assessor will certify the property tax reduction roll to the county auditor and send a copy to the Tax Commission by June 1st of each year. In addition, each county assessor will send a copy of all claims listed on the roll to the Tax Commission. Claims are to be sent in a password protected electronic data file ~~formatted as directed or approved prescribed~~ by the Tax Commission. ~~This password protected electronic file will contain the following information:~~ (3-31-22)(    )

- ~~a.~~ Claimant's Social Security Number; (3-31-22)
- ~~b.~~ Claimant's Date of Birth; (3-31-22)
- ~~c.~~ Claimant's Last Name; (3-31-22)
- ~~d.~~ Claimant's First Name; (3-31-22)
- ~~e.~~ Claimant's Spouse's Social Security Number; (3-31-22)
- ~~f.~~ Claimant's Spouse's Date of Birth; (3-31-22)
- ~~g.~~ Claimant's Spouse's Last Name; (3-31-22)
- ~~h.~~ Claimant's Spouse's First Name; (3-31-22)
- ~~i.~~ Claimant's Telephone Number; (3-31-22)
- ~~j.~~ Claimant's Address; (3-31-22)
- ~~k.~~ Claimant's City; (3-31-22)
- ~~l.~~ List the state's postal abbreviation; (3-31-22)
- ~~m.~~ Claimant's Zip Code; (3-31-22)
- ~~n.~~ Claimant's Parcel Number(s). List the parcel number for the property on which the claimant is receiving the homeowner's exemption. When more than one (1) parcel owned by the claimant is eligible, list all eligible parcel numbers; (3-31-22)
- ~~o.~~ Current Year; (3-31-22)
- ~~p.~~ Claimant's County Number; (3-31-22)
- ~~q.~~ Income Data; (3-31-22)
- ~~r.~~ Identify New Applicants. Identify claimants did not receive this benefit in the previous year; (3-31-22)
- ~~s.~~ Maximum Benefit; (3-31-22)
- ~~t.~~ Qualifying Eligibility Status. Identify all of the following status criteria that the claimant meets; (3-31-22)
  - ~~i.~~ Sixty five (65) years old or older; (3-31-22)
  - ~~ii.~~ Blind; (3-31-22)
  - ~~iii.~~ Disability granted by the Social Security Administration, Railroad Retirement Board, or federal civil service; (3-31-22)
  - ~~iv.~~ Orphan, under eighteen (18) years of age; (3-31-22)
  - ~~v.~~ Prisoner of war or hostage, certified by Veteran's Affairs; (3-31-22)
  - ~~vi.~~ Non-service connected disability or service connected disability at ten percent (10%) to thirty percent (30%), certified by Veteran's Affairs; (3-31-22)

- vii. ~~Service connected disability at forty percent (40%) or more, certified by Veteran's Affairs;~~ (3-31-22)
- viii. ~~Widow or widower, include date of spouse's death;~~ (3-31-22)
- ix. ~~Whether the claimant is lawfully present in the United States;~~ (3-31-22)
- x. ~~100% Service connected disabled veteran, certified by Veterans Affairs; and~~ (3-31-22)
- xi. ~~Occupancy tax reduction claimants~~ (3-31-22)

**05. Certification of Completed Property Tax Reduction Roll by County Auditor.** Except as provided in Section 63-317, Idaho Code, and Subsections 717.06, 717.07, and 717.08 of this rule, no later than the fourth (4th) Monday in October, each county auditor will certify the final property tax reduction roll to the Tax Commission. The roll will contain the preliminary roll information plus ~~the additional occupancy tax reduction claims submitted between June 1 and September 1 as provided in Subsection 717.06 of this rule, and the following information formatted as directed or approved by the Tax Commission.~~ (3-31-22)( )

~~a. Current Year's Levy. List the current year's levy for the tax code area where each claimant's property is located.~~ (3-31-22)

~~b. Current Year's Taxable Value. List the current year's taxable value for each claimant's qualifying property.~~ (3-31-22)

~~c. Claimed Property Tax Reduction or Occupancy Tax Reduction Amount. For each claimant, list the amount of property tax or occupancy tax reduction claimed based on the current year's levy and the current year's eligible taxable value.~~ (3-31-22)

**06. Occupancy Tax Reduction Claims.** List Claims submitted to the county assessor ~~between January 1 and May 15 will be listed on the preliminary property tax reduction roll and submitted to the Tax Commission by June 1. Claims submitted to the county assessor between June 1 and September 1 will be submitted to the Tax Commission by the third Monday in September. These claims will be added to the final property tax reduction roll by the county change letter pursuant to Subsection 717.03 of this rule. Claims submitted to the county assessor after September 1 until the fourth Monday in January of the following year will be listed and submitted as follows~~ as prescribed in Subsections 717.07 and 717.08 of this rule. (3-31-22)( )

**07. Preliminary Supplemental Occupancy Tax Reduction Roll.** The county assessor will certify ~~This roll will be certified by the assessor~~ to the county auditor and the Tax Commission by the first Monday in March of the following tax year. List Claims submitted to the county assessor ~~after September 1 will be listed~~ on the preliminary supplemental occupancy tax reduction roll in the manner outlined in Subsection 717.02 of this rule. Occupancy tax reduction claims ~~will be~~ are subject to the procedures outlined in Section 63-707, Idaho Code. (3-31-22)( )

**08. Final Supplemental Occupancy Tax Reduction Roll.** By the first Monday in April in the following year, the Tax Commission will notify the county auditor of all adjustments or corrections. By the fourth Monday in April of that year, the county auditor will certify the final supplemental occupancy tax reduction roll which will list occupancy claimants in the same order as shown on the preliminary supplemental occupancy tax reduction roll after the county auditor makes corrections. Claims included on the final supplemental occupancy tax reduction roll are to be formatted as outlined in Subsection 717.05 of this rule. ( )

718. -- 799. (RESERVED)

**800. BUDGET CERTIFICATION RELATING TO OPERATING PROPERTY ANNEXATION VALUE**  
~~(RULE 800).~~  
Section 63-802, Idaho Code

01. **“Appropriate County Auditor” Defined.** The ~~“appropriate county auditor” is the~~ county auditor of each county within which any taxing district with an annexation is located. (3-31-22)( )

02. **Annexation Values for Operating Properties.** Pursuant to Section 63-802, Idaho Code, the Tax Commission will certify the current year’s net taxable values of operating properties within annexations made during the previous calendar year. This certification will ~~be a list summarizing~~ ing the values of said operating properties for each applicable taxing district ~~or unit. The Tax Commission will send this list to the appropriate county auditor on or before the third Monday in July. The Tax Commission will calculate these values based on the best available information and is part of the certification required pursuant to Section 63-410, Idaho Code.~~ (3-31-22)( )

~~03. **Corrected Annexation Values for Operating Properties.** If any annexation values reported pursuant to Subsection 800.02 require correction, the Tax Commission will report such corrections on or before the first Monday of September. The Tax Commission will send these values to the appropriate county auditor. (3-31-22)~~

~~04. **County Auditor to Notify Taxing Districts or Units.** As soon as possible, but not later than fourteen (14) days after receipt of the list pursuant to Subsection 800.02 or the corrected values pursuant to Subsection 800.03, the appropriate county auditor will send these values to the~~ notify affected taxing districts ~~or units.~~ (3-31-22)( )

**801. LIMITATION ON BUDGET REQUESTS -- SPECIAL PLANT FACILITIES FUND LEVY PROVISIONS (RULE 801).**  
Sections 63-802, 33-804, 33-317A, 33-909, 33-2729, 33-2113, 33-804A, Idaho Code

01. **Limits on Plant Facilities Funds.** The following limits restrict plant facilities funds For any school, community college, or library district: ~~with a plant facilities fund created pursuant to Section 33-804, Idaho Code,~~ ( )

a. ~~‡~~ The amount of property tax to be budgeted for said fund in any year cannot exceed four tenths of one percent (0.4%) multiplied by the market net taxable value for assessment purposes of the taxing district as of December 31 of the year prior to the first year in which a plant facilities fund levy is made. This limitation will not apply to any state-authorized plant facilities levy, established under Section 33-909, Idaho Code, or to any cooperative service agency school plant facility levy established under Section 33-317A, Idaho Code. (3-31-22)( )

b. No district with an existing plant facilities fund may levy for an additional plant facilities fund until the existing plant facilities fund has expired. ( )

~~02. **No Additional Plant Facilities Fund Permitted**~~ Exceptions to Limits. ~~Any school or library district with an existing plant facilities fund is not allowed to levy for an additional plant facilities fund in any tax year until the period of the existing plant facilities fund has expired. This limitation will~~ Limitations found in Subsection 01 of this rule do not apply to any state-authorized plant facilities levy, established under Section 33-909, Idaho Code, or the cooperative service agency (COSA) school plant facility levy established under Section 33-317A, Idaho Code. (3-31-22)( )

03. **Plant Facilities Fund Extensions or Increases.** Except for increases related to ~~cooperative service agency~~ COSA school plant facility levies, any ~~school or library~~ applicable district may hold an election to increase the amount to be levied pursuant to the requirements of Section 33-804, Idaho Code. For the purpose of such increase, the ~~“total levy for school or library plant facilities and bonded indebtedness” will be~~ is computed as follows: (3-31-22)( )

a. For the first year in which the increased or extended plant facilities fund levy is to be made, sum of the amount to be levied for the plant facilities fund and for any bond fund in existence prior to the new plant facilities fund: ( )

b. Divide the sum computed in Subsection 801.03.a. by the district’s ~~actual market~~ net taxable value ~~for assessment purposes as of December 31 of~~ the year immediately preceding the year in which the increased or extended plant facilities fund is to be levied. (3-31-22)( )

~~e.~~ The value used for this calculation will include any portion of increment value in any Revenue Allocation Area in the district, provided that property tax revenue resulting from the levy of the plant facilities fund against such increment value is allocated to the school district and not to any urban renewal agency. For example, an existing plant facilities fund levy raises one hundred thousand dollars (\$100,000) per year. The district wishes to increase this by fifty thousand dollars (\$50,000) per year. The “total levy” would be computed excluding the increment value for the one hundred thousand dollars (\$100,000) portion, but including the increment value for the fifty thousand dollars (\$50,000) new portion of the amount to be levied. (3-31-22)

~~d.~~ Any plant facilities fund levy that is extended, pursuant to Section 33-804, Idaho Code, will be considered passed after December 31, 2007 for the purposes of section 50-2908, Idaho Code, and increment value will be included in the calculation of the “total levy” and the actual levy. (3-31-22)

**04. Cooperative Service Agency (COSA) School Plant Facility Fund Increases.** Any school district may hold an election to increase the amount to be levied pursuant to the requirements of Section 33-317A. ~~For the purpose of determining whether the increase has been approved by the electors,~~ The “total levy for school plant facilities” will be is computed as follows by combining the amount of the proposed COSA plant facility levy with the most recent plant facilities levy. (3-31-22)(    )

~~a.~~ The first year’s dollar amount of the proposed COSA plant facility levy will be divided by the school district’s actual market value for assessment purposes, including any increment value in any Revenue Allocation Area in the district, as of December 31 of the year immediately preceding the first year in which the COSA plant facility levy is to be made. (3-31-22)

~~b.~~ The dollar amount most recently certified by the school district for an existing plant facilities fund levy will be divided by the district’s actual market value for assessment purposes as of December 31 of the year immediately preceding the first year in which the COSA plant facility levy is to be made. The value used for this calculation will include any portion of increment value in any Revenue Allocation Area in the district, provided that property tax revenue resulting from the levy of the plant facilities fund against such increment value is allocated to the school district and not to any urban renewal agency. (3-31-22)

~~e.~~ The quotients computed in Paragraphs 801.04.a. and 801.04.b. will be summed. (3-31-22)

**05. Maximum Amount of Increased Plant Facilities Fund.** Except as provided in Subsection 801.04, when any district increases its plant facilities fund ~~amount to be levied~~, the maximum amount will not in any year exceed ~~four tenths of a percent (0.4%) multiplied by the actual market value for assessment purposes as of December 31~~ the limit found in Paragraph 801.01.a. applied to the net taxable value of the year immediately preceding the first year the increased fund is to be levied. This limitation will not apply to ~~Cooperative O~~ Service Agency school plant facility levies, which, in any year, will not exceed four tenths of a percent (0.4%) multiplied by the ~~actual market value for assessment purposes as of December 31~~ net taxable value of the immediate prior year. (3-31-22)(    )

**06. Special Reporting Requirements for State-Authorized Plant Facilities Levy.** When the state Department of Education certifies a state-authorized plant facilities levy to any county under Section 33-909, Idaho Code, the county clerk will forward a copy of such certification to the Tax Commission as an attachment to the L-2 Form ~~s~~ described in Rule 803 of these rules ~~and submitted for the affected school district.~~ (3-31-22)(    )

**07. Special Reporting for COSA ~~and Increased Plant Facilities Levies.~~** Any COSA plant facilities levy ~~will be is~~ reported on a separate line on the L-2 Form defined in Rule 803 of these rules. ~~In addition, the increased amount of a plant facilities levy originally approved on or before December 31, 2007 will be reported on a separate line on the L-2 Form.~~ (3-31-22)(    )

**802. BUDGET CERTIFICATION RELATING TO NEW CONSTRUCTION AND ANNEXATION (RULE 802).**

Sections 63-802, 63-301A, 63-602W, 63-602NN, 63-602E, 50-2903, Idaho Code

~~01. Definitions.~~ (3-31-22)

~~a. “Change of Land Use Classification.” “Change of land use classification” means any change in land use resulting in a secondary category change and in a change in taxable land value to be reflected on the current property roll. (3-31-22)~~

~~b. “Incremental Value as of December 31, 2006.” “Incremental value as of December 31, 2006” means the total of the increment values on the property roll, subsequent property roll, missed property roll, and operating property roll for the 2006 tax year. (3-31-22)~~

~~c. “Non-residential Structure.” “Non-residential structure” means any structure listed by the assessor in any secondary category not described as residential, manufactured homes, or improvements to manufactured homes in Rule 511 of these rules. (3-31-22)~~

**02. New Construction Roll Listing.** “Listing” means a summary report of the net taxable value of property listed on the new construction roll. This listing will include the net taxable value of qualifying new construction throughout each taxing district or unit, but will not include otherwise qualifying new construction, the value of which ~~will be is~~ included in the increment value of any revenue allocation area (RAA) ~~within any urban renewal district~~ encompassed by the taxing district or unit. ~~In addition, new construction related to change of land use classification, but required by section 50-2903(4) to be added to the base assessment roll, cannot be added to any new construction roll. This report is to summarize the value reported on the new construction roll by taxing district or unit. List T~~ Taxing districts and units ~~will be listed~~ in the same order ~~that is~~ used for the certification of value required pursuant to Section 63-510(1), Idaho Code. (3-31-22)(    )

a. Qualifying new construction which is valued by the Tax Commission ~~will be is~~ reported to the county assessor for each applicable taxing district by October 1 and ~~will be listed by the assessor~~ on the immediate next new construction roll. (3-31-22)(    )

b. ~~Previously allowable new construction that has never been included.~~ When a taxing district ~~proves or the assessor discovers~~ new construction described by Section 63-301A(3)(g), Idaho Code, ~~occurred during any one of the immediately preceding five (5) years and has never been included on a new construction roll, the county assessor must list that the~~ property is included on the immediate next new construction roll at the value ~~proven by the taxing district. Any such additional new construction must also be separately listed for each taxing district or unit. The taxing district has the burden of proving the new construction was omitted from a new construction roll and the value that would have been listed for that property had it been listed on the appropriate new construction roll. No taxing district will ever be granted any increase in budget authority greater than the amount that would have resulted had the property been listed on the appropriate new construction roll. Regardless of the year that the new construction should have been listed on the appropriate new construction roll, additional budget authority resulting from new construction previously omitted from a new construction roll and listed on the current year’s new construction roll will be permitted only if the taxing district is in compliance with the budget hearing notification requirements of Section 63-802A, Idaho Code, for the current year~~ that would have been included had the new construction been listed when first eligible. (3-31-22)(    )

c. ~~Reporting the amount of taxable market value to be deducted.~~ For each taxing district or unit, the new construction roll ~~listing will separately identify the total amount of taxable market value to be deducted is reduced~~ as required in Section 63-301A(1)(f), Idaho Code, and Paragraph 802.021.e. of this rule. ~~In addition to other requirements, t~~The amount of value deducted ~~will can~~ never exceed the ~~amount~~ originally amount added to a new construction roll. (3-31-22)(    )

d. ~~Determining the amount of taxable market value to be deducted—appeals.~~ The amount of net taxable ~~market~~ value to be deducted under Section 63-301A(1)(f)(i), Idaho Code, ~~will be is~~ determined by the highest authority to which the assessment is ultimately appealed. ~~Accordingly, a~~ Adjustments ~~should are~~ not be made until there has been a final decision on any appeal. ~~In addition, the deduction for lower values resulting from appeals will be made only for property that was placed on a new construction roll within the immediately preceding five (5) years.~~ (3-31-22)(    )

e. ~~Determining the amount of taxable market value to be deducted—provisional exemptions.~~ Provided the addition occurred within the immediate preceding five (5) years ~~but not earlier than 2016~~, the amount of net taxable ~~market~~ value added to any new construction roll for property subsequently granted a provisional



exemption under Section 63-1305C, Idaho Code, ~~will be~~ is deducted from the net taxable ~~market~~ value ~~otherwise included~~ on the immediate next new construction roll prepared following the granting of the provisional exemption. (3-31-22) ( )

**03. Special Provisions for Value Increases and Decreases.** Special provisions for value increases and decreases related to change of land use classification as defined in Paragraph 802.01.a. of this rule or increases in land value resulting from loss of the exemption provided in Section 63-602W(4), Idaho Code. (3-31-22)

~~a. Value increases. Certain related land value increases are to be included on the new construction roll.~~ (3-31-22)

~~i. Except as provided in Subparagraph 802.03.a.iii., increases in land value will be reported on the new construction roll in the year in which the new category appears on the current property roll.~~ (3-31-22)

~~ii. Except as provided in Subparagraph 802.03.a.iii., the increase in taxable land value to be reported will be computed by subtracting the taxable land value, had the land remained in its previous use category, from the taxable land value in the current use category.~~ (3-31-22)

~~iii. Subject to the limitations found in Paragraph 802.06.a. of this rule, increases in land value resulting from loss of the exemption provided in Section 63-602W(4), Idaho Code, will be reported on the new construction roll in the year the exemption is lost, provided this occurs no later than June 30 of that year. If the exemption is lost after June 30 of a given year, the resulting increase in land value will be reported on the new construction roll in the immediate following year.~~ (3-31-22)

~~b. Value decreases. Certain related land value decreases are to be included on the new construction roll and subtracted from total new construction value for any taxing district. The amount of decrease in any one year will never exceed the amount of value originally added to the new construction roll for the same property.~~ (3-31-22)

~~i. Value decreases are to be reported only for land for which taxable market value was reduced as a result of change of land use classification or granting of the exemption for site improvements provided in Section 63-602W(4), Idaho Code, during any one (1) of the immediately preceding five (5) years and for which an increase in value due to addition of site improvements or change of land use classification during the same five year period had been added to a new construction roll. For the site improvement exemption provided in Section 63-602W(4), Idaho Code, the five-year period will commence with the year following the year the exemption is first granted. For example, if a parcel first received the exemption in 2012, any site improvement related addition to a new construction roll for 2008 or more recently must be subtracted from the 2013 new construction roll, unless the exemption is lost by June 30, 2013, in which case there is no subtraction and no addition to the new construction roll for the loss of this exemption.~~ (3-31-22)

~~ii. If the current land category is the same as the category prior to the change that resulted in an addition to the new construction roll, the amount to be subtracted will equal the amount originally added. For example, a dry grazing land parcel that would have had a value of ten thousand dollars (\$10,000) became commercial land and was assessed at fifty thousand dollars (\$50,000). The forty thousand dollar (\$40,000) difference was reported on the new construction roll in year one (1). In year two (2), the parcel is reclassified as dry grazing land and is to be assessed at fifteen thousand dollars (\$15,000). The forty thousand dollar (\$40,000) difference that was added to the year one (1) new construction roll must be deducted from the value shown on the new construction roll in year two (2).~~ (3-31-22)

~~iii. If the current land category is different than the category prior to the change that resulted in an addition to the new construction roll, the amount to be subtracted will be the lesser of the amount originally added or the amount that would have been added had the first change in land use been from the current land category. For example, a dry grazing land parcel that would have had a value of ten thousand dollars (\$10,000) became commercial land and was assessed at fifty thousand dollars (\$50,000). The forty thousand dollar (\$40,000) difference was reported on the new construction roll in year one (1). In year two (2), the parcel is reclassified as irrigated agricultural land and would have had a value in year one (1) of twenty thousand dollars (\$20,000). The amount to be subtracted from the value shown on the new construction roll in year two (2) is thirty thousand dollars (\$30,000).~~ (3-31-22)

~~iv. Provided the criteria in Subparagraph 802.03.b.i. are met, value decreases resulting from previously included land value becoming exempt are to be reported and subtracted. (3-31-22)~~

~~v. Except as provided in Subparagraph 802.03.b.vi., only land value decreases that meet the criteria listed in Subparagraphs 802.03.b.i. or 802.03.b.iv. of this rule and include and result from a change in land secondary category can be considered. (3-31-22)~~

~~vi. Provided the criteria in Subparagraph 802.03.b.i. are met, land value decreases resulting from the exemption provided in Section 63-602W(4), Idaho Code, are to be subtracted from the new construction roll in the year immediately following the most recent year in which the exemption has been granted. To comply with the budget adjustments required by Section 63-802, Idaho Code, which limits taxing district budgets based on the highest amount of property tax revenue requested during the previous three (3) years, such subtraction will be required for up to three (3) years, provided the property continues to receive the exemption. (3-31-22)~~

**042. Manufactured Housing.** ~~“Installation” of new or used manufactured housing means capturing the occurs when there is~~ net taxable ~~market~~ value of ~~the improvement(s) that~~ such properties that did not previously exist within the county. (3-31-22)(    )

**053. Partial New Construction Values.** Except as provided in Subsection 802.065 of this rule, the net taxable ~~market~~ value attributable directly to new construction ~~will be is~~ reported on the new construction roll in the tax year it is placed on the ~~current assessment~~ property roll. Except as provided in Subsection 802.065 of this rule, any increase in a non-residential parcel’s net taxable value, due to new construction, ~~will be is~~ computed by subtracting the previous year’s or years’ partial net taxable value(s) from the current net taxable value. ~~If any of this difference is attributable to inflation, such value, except as provided in Subsection 802.06 of this rule, will not be included on the new construction roll. (3-31-22)(    )~~

**064. Change in Status.** ( )

a. A previously exempt improvement which becomes taxable ~~will is~~ not ~~be~~ included on the new construction roll, unless the loss of the exemption occurs during the year in which the improvement was constructed ~~or unless~~ the improvement has lost the exemption provided in Sections 63-602W(3) ~~or (4), Section 63-602E(3), or Section 63-602NN, Idaho Code.~~ For any such property, the amount that may be included on the new construction roll ~~will be is~~ the value of the portion of the property subject to the exemption at the time the exemption was first granted. ~~For otherwise qualifying property that loses the exemption provided in Section 63-602NN, Idaho Code, but that has had its value added to the base assessment roll in a revenue allocation area as provided in Rule 804 of these rules, the value so added may be added to the new construction roll. Examples of special cases for the exemption provided in Section 63-602W(4), Idaho Code, follow: (3-31-22)(    )~~

i. If the exemption is lost by ~~June 30~~ the second Monday in July of the year in which the exempt amount was to be subtracted from the new construction roll, then there ~~will be is~~ no subtraction, nor will the formerly exempt amount be added, ~~to the new construction roll,~~ unless it had been previously subtracted from a new construction roll. ~~For example, the property first became exempt in 2012, but lost the exemption by June 30, 2013. The 2013 new construction roll was not adjusted downward, so any previous inclusion of the exempt value would not be added in the future. Had the property lost the exemption later in 2013, there would have been a subtraction from the 2013 new construction roll and a subsequent addition to the 2014 new construction roll. (3-31-22)(    )~~

ii. If the exemption was granted to otherwise qualifying property for which no value had been added to any new construction roll, the value of the property (~~site improvements~~) at the time the exemption was first granted may be added to the new construction roll following loss of the exemption. (3-31-22)(    )

b. ~~Except as provided in Paragraph 802.06.d. of this rule, upon receipt by the Tax Commission of a resolution recommending adoption of an ordinance for termination of an RAA under Section 50-2903(5), Idaho Code, any not previously included positive difference of the most current increment value minus the “incremental value as of December 31, 2006,” or the entire current increment value, if there was no such value as of December 31, 2006, will be added to the appropriate year’s new construction roll. Upon the effective date of any de-annexation of a portion of an RAA, the immediate prior year’s increment value associated with the parcels in the de-annexed area is to be included in the appropriate year’s new construction roll as described in Paragraph 802.06.d. of this rule,~~

~~provided such value has not been previously included on any new construction roll. When this information is received after the fourth Monday in July, this positive net increment value will be added to the following year's new construction roll. An urban renewal agency terminating a revenue allocation area must provide the resolution and the ordinance to terminate to the Tax Commission as provided in Section 50-2903(5), Idaho Code. The immediate prior year's increment value of a terminating revenue allocation area not previously included on a new construction roll, is added to the appropriate year's new construction roll as provided in Section 63-301A(3)(f) and (i), Idaho Code, and as described in the link found in 802.06.d. Upon the effective date of any de-annexation of a portion of a revenue allocation area, the immediate prior year's increment value associated with the parcels in the de-annexed area, and not previously included is included in the appropriate year's new construction roll as described in the link in Paragraph 802.06.d. of this rule. When this information is received after the fourth Monday in July, this increment value is added to the following year's new construction roll.~~ (3-31-22)(\_\_\_\_)

~~c. Upon receipt by the Tax Commission of an attestation indicating that an urban renewal plan has been modified in such a way as to result in resetting the base value in an RAA, as provided in Section 50-2903A, Idaho Code, increases in base value due to the addition of previously determined increment value may be added to the new construction roll as described in Section 63-301A(3)(j), Idaho Code, provided such value has not previously been included on any new construction roll. In such a case, at termination of the RAA, only new additional increment value following the reset of the base value will be included on the new construction roll. If the Tax Commission receives an attestation indicating that an urban renewal plan has been modified in such a way as to reset the base value in a revenue allocation area, as provided in Section 50-2903A, Idaho Code, the previously identified increment value is added to the base and may be added to the new construction roll as described in Section 63-301A(3)(j), Idaho Code. In such a case, at the termination of the revenue allocation area, only the new increment value following the reset of the base value is included on the new construction roll.~~ (3-31-22)(\_\_\_\_)

~~d. When a portion of an RAA is de-annexed, the following steps must be used to determine the amount to be added to the current year's new construction roll and the amount to be subtracted from the "incremental value as of December 31, 2006." See examples of how to add locally assessed property increment value to the new construction roll following de-annexation at <https://tax.idaho.gov>.~~ (3-31-22)(\_\_\_\_)

- ~~i. Step 1. For the parcels in the de-annexed area, determine the December 31, 2006, increment value.~~ (3-31-22)
- ~~ii. Step 2. Subtract the increment value determined in Step 1 from the immediate prior year's increment value for the parcels in the de-annexed area.~~ (3-31-22)
- ~~iii. Step 3. Add any positive difference calculated in Step 2 to the current year's new construction roll value.~~ (3-31-22)
- ~~iv. Step 4. Adjust the "incremental value as of December 31, 2006" for the RAA by subtracting the increment value determined in Step 1.~~ (3-31-22)

~~v. The following table shows the amount to be added to the current year's new construction roll and the amount to be subtracted from the "incremental value as of December 31, 2006" applicable to the adjusted remaining RAA. The table assumes an area is de-annexed from an original RAA effective December 31, 2016.~~

<b>Steps (as designated in Paragraph 802.06.d.)</b>	<b>Area</b>	<b>Value</b>
	December 31, 2006, increment value of the original RAA	\$10,000,000
Step 1	December 31, 2006, increment value of the de-annexed area	\$1,000,000
	December 31, 2016, increment value of the de-annexed area	\$3,000,000
Steps 2 and 3	Amount related to the de-annexed area to be added to the 2017 new construction roll	\$2,000,000

Steps (as designated in Paragraph 802.06.d.)	Area	Value
Step 4	Adjustment amount to be deducted from the original RAA's "incremental value as of December 31, 2006"	<\$1,000,000>
	Adjusted "incremental value as of December 31, 2006" for the remaining RAA (base for future new construction roll additions upon dissolution of all or part of remaining RAA)	\$9,000,000

(3-31-22)

vi. If the de-annexation in the example in sub-paragraph v. had taken effect prior to the fourth Monday of July 2016, the 2015 increment value for the affected parcels would have been added to the 2016 new construction roll after subtracting the 2006 increment value. (3-31-22)

vii. The value of operating property increment value to be included on the new construction roll when a de-annexation occurs is computed as shown in the following example:

Sum the previous year's increment values of the locally assessed parcels in the area to be de-annexed	\$15,000,000
Divide this sum by the previous year's increment value of all locally assessed parcels in the RAA	$\$15,000,000 \div \$130,000,000 = .1154$
Multiply by 100 to determine the percentage applicable to the locally assessed parcels located within the area to be de-annexed	$.1154 \times 100 = 11.54\%$
Determine the difference between the operating property increment value in the whole RAA for the year preceding the de-annexation from the 2006 increment value of all operating in the whole RAA	$\$2,000,000 - \$500,000 = \$1,500,000$
Multiply the locally assessed percentage by the increase in the operating property increment value	$11.54\% \times \$1,500,000 = \$173,100$
The value of operating property increment to be included on the new construction roll when a de-annexation occurs	\$173,100

(3-31-22)

e. See an example of how to add operating property increment value to the new construction roll following de-annexation at <https://tax.idaho.gov>. ( )

ef. For taxing districts formed after December 31, 2006, or annexing or being annexed into a revenue allocation area after that date, the amount of increment value to be added to the new construction roll will equal any positive difference between the increment value at the time of formation of the taxing district or annexation by or into the revenue allocation area and the increment value at the time of dissolution of the revenue allocation area or the increment value within the area deannexed from the revenue allocation area termination or de-annexation. (3-31-22)( )

075. **Limitation on Annexation and New Construction Roll Value.** For any taxing district annexing property in a given year, the new construction roll for the following year will not include value that has been included in the annexation value. When an annexation includes any part of a revenue allocation area, only net taxable value that is part of the current base value of the taxing district is to be included in the annexation value reported for that taxing district for the year following the year of the annexation. (3-31-22)( )

08. **Notification of New Construction Roll and Annexation Values.** On or before the fourth Monday in July, each county auditor must report the net taxable values on the new construction roll and of locally assessed

~~property within annexed areas for each appropriate taxing district or unit to that taxing district or unit. Annexation value contributed by centrally assessed operating property will be provided to each county auditor by the first Monday in September.~~ (3-31-22)

**803. BUDGET CERTIFICATION -- DOLLAR CERTIFICATION FORM (L-2 FORM) ~~(RULE 803).~~**

Sections 63-602G(5), 63-802, 63-803, 63-3029B(4), 63-3502B, 50-2903A, 50-2913, 63-3638(11), and (13), 63-1305C, ~~33-802, 39-2812, 27-121,~~ Idaho Code

**01. Definitions.** ( )

a. ~~“Dollar Certification Form” (L-2 Form).~~The Dollar Certification Form (L-2 Form) is the form used to submit to the Tax Commission the budget request from each board of county commissioners for each by taxing districts to certify their budgets to the county. This form ~~will be is~~ presumed to be a true and correct representation of the budget previously prepared and approved by a taxing district. The budget ~~will be is~~ presumed adopted ~~in accordance with pertinent to appropriate~~ statutory provisions unless clear and convincing documentary evidence establishes that a budget results in an unauthorized levy and action as provided in Section 63-809, Idaho Code procedures. (3-31-22)( )

b. ~~“Prior Year’s Market Value for Assessment Purposes.”~~ Prior year’s market net taxable value for assessment purposes means is the value used to calculate levies during the immediate prior year. This value ~~will be is~~ used for calculating the permanent ~~budget~~ increase permitted for cities, pursuant to Section 63-802(1)(g), Idaho Code. (3-31-22)( )

c. ~~“Annual Budget.”~~ For the purpose of calculating dollar amount increases permitted pursuant to Section 63-802(1), Idaho Code, ~~t~~The annual budget includes any amount permanent override approved as a result of an election held pursuant to Sections 63-802(1)(g) or 63-802(1)(h), Idaho Code, provided that said amount is certified on the L-2 Form as part of the budget request. If the amount certified does not include the entire amount approved as a result of the election held pursuant to Sections 63-802(1)(g) or 63-802(1)(h), Idaho Code, then the amount not used will be is eligible to be added to the foregone increase amount determined balance for the taxing district, ~~provided the district reserves this amount as provided in Paragraph 803.03.b, of these rules.~~ (3-31-22)( )

d. ~~“Property Tax Funded Budget.”~~ Property tax funded budget means that portion of any taxing district’s budget certified to the board of county commissioners; and approved by the Tax Commission; ~~and subject to the limitations of Section 63-802, Idaho Code.~~ (3-31-22)( )

e. ~~“Recovered/Recaptured Property Tax and Refund List.”~~ Recovered/recaptured property tax and refund list means the report sent by the county auditor to the appropriate taxing district(s) by the first Monday in August and to the Tax Commission with the L-2 Forms, listing the amount of revenue distributed, or refunds charged, to each appropriate taxing district during the twelve (12) month period ending June 30 each year under as provided in the following sections: (3-31-22)( )

- i. Section 63-602G(5), Idaho Code; ( )
- ii. Section 63-3029B(4), Idaho Code; ( )
- iii. Section 63-602KK(7), Idaho Code, for personal property exempted after 2013 for which no replacement money was paid; ( )
- iv. Section 63-3502B(2), Idaho Code, for distributions of gross earnings tax on solar farms; ( )
- v. Section 50-2903A(3), Idaho Code, for distributions of urban renewal allocations funds derived from revenue allocation areas in excess of the amount necessary to pay indebtedness; ~~when required;~~ (3-31-22)( )
- vi. Section 50-2913(3)(c), Idaho Code, for distributions of urban renewal allocations funds derived from revenue allocation areas in excess of the amount received during the immediate prior tax year; ~~when required;~~ (3-31-22)( )

vii. Section 63-1305C(3), Idaho Code, for revoked provisional property tax exemptions; and ( )

viii. Section 63-1305C(6), Idaho Code, for refunds related to provisional property tax exemptions. ( )

f. ~~“Taxing District/Unit.”~~ Taxing district/unit means any governmental entity with authority to levy property taxes as defined in Section 63-201, Idaho Code, and those governmental entities without authority to levy property taxes but on whose behalf such taxes are levied by an authorized entity such as the county ~~or city.~~ (3-31-22)( )

g. ~~“New Taxing District.”~~ For property tax budget and levy purposes, ~~n~~New taxing district means any taxing district for which no property tax revenue has previously been levied. ~~See the Idaho Supreme Court case of Idaho County Property Owners Association, Inc. v. Sringa General Hospital District, 119 Idaho 309, 805 P.2d 1233 (1991).~~ (3-31-22)( )

**02. Budget Certification.** The ~~required~~ budget ~~is~~ certification ~~ed~~ ~~will be made~~ to each board of county commissioners representing each county in which the district is located by submitting the completed and signed L-2 Form ~~prescribed by the Tax Commission.~~ ~~Unless otherwise provided for in Idaho Code,~~ ~~b~~Budget requests for the property tax funded portions of the budget will not exceed the amount published in the notice of budget hearing ~~if a budget hearing notice is required in Idaho Code for the district.~~ The levy approved by the Tax Commission will not exceed the levy computed using the amount shown in the notice of budget hearing. (3-31-22)( )

**03. Budget Certification Requested Documents.** ~~Using t~~The completed L-2 Form, ~~each board of certified to the~~ county commissioners ~~will is~~ submitted to the Tax Commission ~~a budget request~~ for each taxing district ~~in the county that certifies a budget request with an amount~~ to finance the property tax funded portion of its annual budget ~~and a copy of the published budget.~~ The board of county commissioners will only submit documentation specifically requested by the Tax Commission. (3-31-22)( )

a. ~~Forgone Increase~~ ~~Documentation~~ Reservation. For any taxing district ~~submitting a budget including previously forgone increases,~~ required documentation includes a copy of the resolution certifying the amount of the forgone increase being included and the specific purpose for which this increase is being budgeted. Each such taxing district must submit the resolution to the board of county commissioners representing each county in which the district is located along with the L-2 Form. The board of county commissioners must attach a copy of the resolution to be submitted to the Tax Commission along with the L-2 Form. Such submittal will constitute submittal to the Tax Commission reserving additional forgone property taxes as provided in Section 63-802(1)(f), Idaho Code, the required resolution must be submitted to the Tax Commission and the board of county commissioners representing each county in which the district is located by the end of the calendar year during which the most recent L-2 Form was submitted. Consolidating districts may add previously existing forgone amounts by resolution. (3-31-22)( )

b. ~~Forgone i~~Increase ~~reservation~~ Recovery. Any resolution to ~~reserve the right to accrue an annual increase in the~~ recover previously accrued forgone amounts ~~must state the amount of such forgone increase being reserved and must be~~ is submitted to the board of county commissioners representing each county in which the district is located along with the L-2 Form. ~~The board of county commissioners must attach a~~ A copy of the resolution to be is submitted to the Tax Commission ~~along with the L-2 Form.~~ ~~Such submittal will constitute submittal to the Tax Commission.~~ (3-31-22)( )

**04. L-2 Form Contents.** Each taxing district ~~or unit completing an~~ will use the L-2 Form ~~will include the following information on or with this form as prescribed the Tax Commission.~~ (3-31-22)( )

a. ~~“Department or Fund~~ Name.” Identify the department or fund ~~for which the taxing district is requesting a budget for the current tax year.~~ (3-31-22)( )

b. ~~“Total Approved Budget.”~~ List the dollar amount of the total budget for each department or fund identified. ~~The amounts must i~~Include all money that a taxing district ~~has a potential~~ intends to spend ~~at the time the budget is set,~~ regardless of whether funds are to be raised from property tax. Funds without support from property tax levies may be combined and noted as non-levying funds. (3-31-22)( )

- c. ~~“Cash Forward Balance.”~~ List any money retained, ~~but~~ or money brought forward from a prior year ~~is~~ intended to fund the approved budget ~~being certified on the L-2 form.~~ (3-31-22)( )
- d. ~~“Other Revenue not Shown in Column 5.”~~ List the revenue included in the total approved budget to be derived from sources other than property tax or money brought forward from a prior year. ~~For example, sales tax revenue is included.~~ (3-31-22)( )
- e. ~~“Property Tax Replacement.”~~ Report the following amounts received for the twelve (12) month period ending June 30 of the current tax year: ( )
- i. The amount of money received ~~annually~~ under Section 63-3638(11), Idaho Code, as replacement revenue for the agricultural equipment exemption under Section 63-602EE, Idaho Code; (3-31-22)( )
- ii. ~~The amount of money received as recovery of property tax exemption under Section 63-602G(5), Idaho Code, and listed on the “Recovered/recaptured property tax and refund list”;~~ (3-31-22)
- iii. ~~The amount of money received as recapture of the property tax benefit under Section 63-3029B(4), Idaho Code, and listed on the “Recovered/recaptured property tax and refund list”;~~ (3-31-22)
- iv. The amount of money received under Section 63-3638(13), Idaho Code, for the personal property exemption under 63-602KK(2), Idaho Code; (3-31-22)( )
- v. ~~The amount of money received under Section 63-602KK(7), Idaho Code, for personal property exempted after 2013, for which no replacement money was paid, and listed reported~~ on the ~~“Recovered/Recaptured Property Tax and Refund List”;~~ (3-31-22)( )
- vi. ~~The amount of money received as a result of distributions of the gross earning tax on solar farms, as provided in Section 63-3502B(2), Idaho Code., and listed on the “Recovered/recaptured property tax and refund list”;~~ (3-31-22)
- vii. ~~The amount of money received as a result of distributions of urban renewal allocations in excess of the amount necessary to pay indebtedness, as provided in Section 50-2903A(3), Idaho Code, and listed on the “Recovered/recaptured property tax and refund list”;~~ (3-31-22)
- viii. ~~The amount of money received as a result of distributions of urban renewal allocations in excess of the amount received by the urban renewal agency in the immediate prior year, as provided in Section 50-2913(3)(c), Idaho Code and listed on the “Recovered/recaptured property tax and refund list”;~~ and (3-31-22)
- ix. ~~The amount of money received as a result of distributions of recovered property tax for revoked provisional property tax exemptions pursuant to Section 63-1305C(3), Idaho Code.~~ (3-31-22)
- f. ~~“Balance to be Levied.”~~ Report the amount of money ~~included in the total approved budget to be derived~~ levied from property tax. (3-31-22)( )
- g. Other Information: ~~Provide the following additional information.~~ (3-31-22)( )
- i. The name of the taxing district or unit; ( )
- ii. The voter approved fund tracker showing date of voter approval ~~(if required by statute), starting date, and, except for permanent increases, the~~ effective period for any new or increased fund which is exempt from the budget limitations in Section 63-802, Idaho Code; (3-31-22)( )
- iii. The signature, date signed, printed name, mailing address, email address, and phone number of an authorized representative of the taxing district; and (3-31-22)( )
- iv. For a hospital district which has held a public hearing, a signature certifying such action; ( )

v. For any taxing district including ~~previously~~ forgone increases in their budget ~~or reserving any forgone increase~~, an attestation to having held the required public hearing ~~on the resolution to include or reserve the forgone amount;~~ and (3-31-22)(    )

vi. Judgments to be levied pursuant to Section 63-1305, Idaho Code, including the amount and the court or Board of Tax Appeals order providing for the judgment. (    )

~~h.~~ Attached Information. Other information submitted ~~to the county auditor~~ with the L-2 Form; (3-31-22)(    )

~~i.~~ For all taxing districts, L-2 worksheet. (3-31-22)

~~ii.~~ For newly formed recreation or auditorium districts, a copy of the petition forming the district showing ~~any~~ levy restrictions imposed by that petition; (3-31-22)(    )

~~iii.~~ For any new ballot measures (~~bonds, overrides, permanent overrides, supplemental maintenance and operations funds, cooperative service agency funds, and plant facility funds~~), notice of election and election results, and the expiration date of any voter approved levies; a copy of the ballot and canvass of votes; (3-31-22)(    )

~~iv.~~ Voter approved fund tracker. (3-31-22)

~~viii.~~ For fire districts levying against utility property or changing exemptions as provided in Section 31-1425, Idaho Code, a copy of any new agreements with utility companies providing for payment of property taxes by that utility company to that fire district; and a copy of any new ordinances changing locally assessed property categories subject to taxation. (3-31-22)(    )

iv. For cities being annexed by fire districts, the amount of property tax spent on fire protection services during the last year the city funded these services; (    )

~~vi.~~ For any city with city funded library operations and services at the time of consolidation with any library district, ~~each such city must submit~~ a certification ~~to the board of county commissioners and the board of the library district~~ reporting the dedicated portion of that city's property tax funded library ~~fund~~ budget and separately reporting any portion of its property tax funded general fund budget used to fund library operations or services at the time of the election for consolidation ~~with the library district;~~ (3-31-22)(    )

~~vii.~~ For any library district consolidating with any city that had any portion of its property tax funded budget(s) dedicated to library operations or services at the time of the election for consolidation, ~~each such library district must submit to the board of county commissioners~~ a copy of the certification from that city reporting the information provided for in Subparagraph 803.04.h.vi. of this rule; and (3-31-22)(    )

~~viii.~~ For any taxing district including ~~previously~~ forgone increases in their budget ~~or reserving any forgone increase~~, a copy of the resolution describing the amount and specific purpose of the forgone ~~increase being reserved, or the amount included and specific purpose for which it is being included.~~ (3-31-22)(    )

**05. Special Provisions for Fire Districts Levying Against Operating Property.** To prevent double counting of public utility property values, for any year following the first year in which any fire district increases its budget using the provision of Section 63-802(2), Idaho Code, such fire district will not be permitted further increases under this provision unless the following conditions are met: (3-31-22)

~~a.~~ The fire district and public utility have entered into a new agreement of consent to provide fire protection to the public utility; and (3-31-22)

~~b.~~ Said new agreement succeeds the original agreement; and (3-31-22)

~~e.~~ In the first year in which levies are certified following the new agreement, the difference between



~~the current year's taxable value of the consenting public utility and public utility value used in previous budget calculations made pursuant to this section is used in place of the current year's taxable value of the consenting public utility.~~ (3-31-22)

**065. Special Provisions for Property Tax Replacement and Refunds Pursuant to Section 63-1305C(6), Idaho Code.** Property tax replacement monies must be reported on the L-2 Form and separately identified on accompanying worksheets. Except as provided in Paragraph 803.065.f.c. of this rule, for all taxing districts, replacement these monies must be subtracted from or, in the case of refunds, not included in, the “balance to be levied”. The reduced balance will be used to compute levies. The maximum amount permitted pursuant to Section 63-802(1), Idaho Code, will be based on the sum of these property tax replacement monies including recoveries received pursuant to Section 63-1305C(3), Idaho Code, but excluding monies received pursuant to Section 63-3502B(2), Idaho Code, and the amount actually levied. Each taxing district’s proportionate share of refunds pursuant to Section 63-1305C(6), Idaho Code, as reported in Paragraph 803.01.e. of this rule, must be subtracted from the maximum amount permitted pursuant to Section 63-802(1), Idaho Code. (3-31-22)(\_\_\_\_)

**a.** The Tax Commission will, by the fourth Monday of July, notify each county clerk if the amount of property tax replacement money, pursuant to Sections 63-3638(11) and (13), Idaho Code, to be paid to a taxing district changes from the amount paid in the preceding year. By the first Monday of May, the Tax Commission will further notify each school district and each county clerk of any changes in the amount of property tax replacement money to be received by that school district pursuant to Sections 63-3638(11) and (13), Idaho Code. (3-31-22)(\_\_\_\_)

**b.** By ~~no later than~~ the first Monday of August of each year, each county clerk will notify each appropriate taxing district or unit of the total amount of property tax replacement monies, and the type of replacement money, as described in Paragraph 803.04.e. of this rule. For charter school districts subject to the provisions of Paragraph 803.065.f.c. of this rule, the amount to be subtracted ~~will be is~~ reported. (3-31-22)(\_\_\_\_)

**c.** Except as provided in Paragraph 803.065.d. of this rule, the subtraction required in Subsection 803.065 of this rule may be from any fund(s) subject to the limitations of Section 63-802, Idaho Code. For school districts, these subtractions must be are first from funds subject to the limitations of Section 63-802, Idaho Code, then from other property tax funded budgets. (3-31-22)(\_\_\_\_)

**d.** For taxing districts receiving distributions of the gross earning tax on solar farms described in Section 63-3502B(2), Idaho Code, the amount of any such distribution received during the twelve (12) ~~(twelve)~~ months ending June 30 of the current tax year will be is subtracted from the maximum amount of property tax revenue permitted pursuant to Section 63-802, Idaho Code. ~~In addition to the amounts reported as described in Paragraph 803.06.b. of this rule, the county clerk will, by the first Monday in August, notify each taxing unit of the total amount of the gross earnings tax on solar farms billed for the current tax year.~~ (3-31-22)(\_\_\_\_)

**e.** ~~Levy limits will be tested against the amount actually levied.~~ (3-31-22)

**f.c.** For charter school districts with a levy in 2013 and 2022 for maintenance and operations, as provided in Section 33-802(6), Idaho Code, there is no subtraction for a portion of the property tax replacement money received for property subject to the exemption in Section 63-602KK, Idaho Code, is not required to be subtracted in determining the “balance to be levied.” Said portion will be is the amount calculated by applying the 2013 and 2022 levy rates for the maintenance and operations levy ~~amount~~, as authorized in the district’s charter, to the 2013 and 2022 exempt value of personal property used to compute replacement money provided to the school district. (3-31-22)(\_\_\_\_)

**g.** ~~For recovered personal property exemptions, as provided in Section 63-602KK(7), Idaho Code, for personal property exempted in 2013 for which replacement money was paid, recovered amounts will be distributed to the Tax Commission. Once received, the amount of future payments to the affected taxing districts will be reduced by the amount received.~~ (3-31-22)

**076. Special Provisions for Library Districts Consolidating with Any City’s Existing Library Operations or Services.** For any library district consolidating with any city’s existing library operations or services, the amount of the dedicated property tax funded general fund and library fund budgets certified by the city under Subparagraph 803.04.h.vi., of this rule will be is added to that library district’s property tax funded budget in effect at

the time of the election for consolidation. This total ~~will be used as this~~ **constitutes the** district's property tax funded budget for the most recent year of the three (3) years preceding the current tax year ~~for the purpose of deciding the property tax funded budget that may be increased as provided by Section 63-802, Idaho Code.~~ (3-31-22)(    )

**087. Special Provisions for Cities with Existing Library Operations or Services Consolidating with Any Library District and Cities Annexed by Fire Districts.** For any city with existing library operations or services at the time of consolidation with any library district, the amount of the dedicated property tax funded library fund budget included in the certification by the city under Subparagraph 803.04.h.vi., of this rule ~~will be is~~ subtracted from that city's total **maximum allowable** property tax ~~funded budget in effect at the time of the election for the consolidation. This difference will be used as this city's property tax funded budget for the most recent year of the three (3) years preceding the current tax year for the purpose of deciding the property tax funded budget that may be increased as provided by~~ **to be levied after the calculation of the annual budget increases described in Section 63-802, Idaho Code. For cities annexed by fire districts, the city will subtract the amount spent on fire protection services from its maximum allowable property tax to be levied after the calculation of the annual budget increases described in** Section 63-802, Idaho Code. (3-31-22)(    )

**09. Special Provisions for Calculating Total Levy Rate for Taxing Districts or Units with Multiple Funds.** Whenever the "Calculated Levy Rate" column of the L-2 Form indicates that a levy rate has been calculated for more than one (1) fund for any taxing district or unit, the "Column Total" entry must be the sum of the levy rates calculated for each fund. Prior to this summation, the levy rates to be summed must be rounded or truncated at the ninth decimal place. No additional rounding is permitted for the column total. (3-31-22)

**10. Special Provisions for School Districts' Tort Funds—Hypothetical New Construction Levy.** ~~To calculate the new construction portion of the allowed annual increase in a school district's tort fund under Section 63-802(1), Idaho Code, calculate a Hypothetical New Construction Levy. To calculate this hypothetical levy, sum the amount of the school district's tort fund levied for the prior year, the agricultural equipment replacement revenue, and the personal property replacement revenue, then divide this sum by the school district's taxable value used to determine the tort fund's levy for the prior year. For the current year, the allowed tort fund increase for new construction is this Hypothetical New Construction Levy times the current year's new construction roll value for the school district.~~ (3-31-22)

**108. Special Provisions for Interim Abatement Districts.** When an interim abatement district transitions into an ~~formally defined~~ abatement district under Section 39-2812, Idaho Code, the ~~formally defined~~ abatement district will not be considered a new taxing district ~~as defined in Paragraph 803.01.g. of this rule~~ for the purposes of Section 63-802, Idaho Code. For the ~~formally defined~~ abatement district, the annual budget subject to the limitations of Section 63-802, Idaho Code, ~~will be is~~ the **most recent** amount of property tax revenue approved for the interim abatement district. (3-31-22)(    )

**12. Special Provisions for Consolidating Cemetery Districts.** ~~When two (2) or more cemetery districts consolidate, the first year in which the consolidated cemetery district levies property tax, the maximum budget subject to the limitations of Section 63-802, Idaho Code, will be computed as follows:~~ (3-31-22)

**a.** ~~Determine the highest levy rate of any of the former cemetery districts now consolidating, based on the sum of the immediate prior year's levies subject to the limitations of Section 63-802, Idaho Code.~~ (3-31-22)

**b.** ~~Multiply this levy rate by the current taxable value of property within the area of the former cemetery districts other than the district with the highest rate.~~ (3-31-22)

**c.** ~~Multiply this levy rate by the current taxable value of new construction, as reported on the new construction roll, within the area of the former cemetery district with the highest levy rate.~~ (3-31-22)

**d.** ~~Add:~~ (3-31-22)

**i.** ~~The amounts computed in Paragraphs 803.12.b. and 803.12.c., of this rule;~~ (3-31-22)

**ii.** ~~Three percent (3%) of the highest amount of property taxes certified by the former cemetery district determined in Paragraph 803.12.a. of this rule, to have had the highest levy rate, for its annual budget, as defined in~~

~~Section 63-802(1)(a), Idaho Code; and~~ (3-31-22)

~~iii. Any forgone amounts of the former cemetery districts now consolidating.~~ (3-31-22)

~~13. Special Provisions for Highway Districts in Urban Renewal Revenue Allocation Areas.~~ For highway districts located wholly or partially within urban renewal revenue allocation areas (RAAs) formed July 1, 2020, or later or RAAs which annex property within a highway district, any agreement for an allocation of revenue to the urban renewal agency, as provided in Section 50-2908, Idaho Code, is to be submitted to the tax commission and the county clerk by September 1 of tax year to be in effect for that year's revenue allocation. (3-31-22)

~~1409. Cross Reference for School Districts with Tuition Funds.~~ School district tuition fund levies are For exemption from the limitations of Section 63-802, Idaho Code, for school district tuition funds. See Section 33-1408, Idaho Code. (3-31-22)( )

**804. TAX LEVY - CERTIFICATION - URBAN RENEWAL ~~DISTRICTS (RULE 804)~~ REVENUE ALLOCATION AREAS.**

Sections 50-2908, 50-2033, 50-1903, 50-2903A, 50-2905A, 50-2913, 63-803, 63-811, 63-317A, 33-909, 67-1076, 63-802, 63-602Y, Idaho Code

**01. Definitions.** ( )

~~a. "Urban renewal district." An urban renewal district, as referred to in Section 63-215, Idaho Code, shall mean an urban renewal area formed pursuant to an urban renewal plan adopted in accordance with Section 50-2008, Idaho Code. Urban renewal districts are not taxing districts.~~ (3-31-22)

~~ba. "Revenue allocation area (RAA)." A revenue allocation area (RAA) as referred to in Section 50-2908, Idaho Code, shall be is the area defined in Section 50-2903, Idaho Code, in which base and increment values are to be determined. A new urban renewal plan is required when an urban renewal agency establishes a new RAA revenue allocation area. Revenue allocation areas (RAAs) are not taxing districts.~~ (3-31-22)( )

~~eb. "Current base value." The Ccurrent base value does not include value found on the occupancy roll. Current base value includes the previous year's non-prorated value of current taxable property subject to assessment under Sections 63-602Y and 63-313, Idaho Code during the year the initial base value was established.~~ (3-31-22)( )

~~dc. "Initial base value." The initial base value for each parcel is the sum of the net taxable value of each category of property in the parcel for the year the RAA revenue allocation area is established. In the case of annexation to an RAA revenue allocation area, initial base value of each annexed parcel shall be the value of that parcel as of January 1 of the year in which the annexation takes place. The initial base value includes any prorated value added for property subject to Sections 63-602Y and 63-313, Idaho Code.~~ (3-31-22)( )

~~ed. "Increment value." The increment value is the difference between the current equalized net taxable value of each parcel of taxable property in the RAA revenue allocation area and that parcel's current base value, provided such difference is a positive value. Newly constructed improvements with value listed on the occupancy roll within a newly formed RAA revenue allocation area or within an area newly annexed to an existing RAA will be revenue allocation area are added as increment value in the year following the year of formation or annexation.~~ (3-31-22)( )

~~f. "Revenue allocation financing provision." A revenue allocation area (RAA) shall be considered to be a revenue allocation financing provision.~~ (3-31-22)

**02. Establishing and Adjusting Base and Increment Values.** ( )

a. Establishing initial base value. If a parcel's legal description has changed prior to computing initial base year value, the value that best reflects the prior year's net taxable value of the parcel's current legal description must be determined and will constitute the initial base year value for such parcel. The initial base value includes the net taxable value, as of the effective date of the ordinance adopting the urban renewal plan, of all otherwise taxable

~~property, as defined in Section 50-2903, Idaho Code.~~ Initial base value does not include value found on the occupancy roll. (3-31-22)( )

b. Adjustments to base value - general value changes. Adjustments to base values ~~will be~~ are calculated on a parcel by parcel basis, each parcel being a unit and the total value of the unit being used in the calculation of any adjustment. Base values are to be adjusted downward when the current net taxable value of any parcel in the RAA revenue allocation area is less than the most recent base value ~~for such parcel~~. In the case of parcels containing some categories of property which increase in value and some which decrease, the base value for the parcel will only decrease provided the sum of the changes in category values results in a decrease in total parcel value. Any adjustments ~~shall be made~~ are by category and may result in increases or decreases to base values for given categories of property for any parcel. Adjustments to base values for any real, personal, or operating property ~~shall~~ establish new base values from which future adjustments may be made. ~~In the following examples the parcel's initial base value is one hundred thousand dollars (\$100,000), including Category 21 value of twenty thousand dollars (\$20,000) and Category 42 value of eighty thousand dollars (\$80,000).~~ (3-31-22)( )

i. ~~Case 1: Offsetting decreases and increases in value. One (1) year later the parcel has a one thousand dollar (\$1,000) decrease in value in Category 21 and a one thousand dollar (\$1,000) increase in Category 42 value. There is no change in the base value for the parcel.~~ (3-31-22)

ii. ~~Case 2: Partially offsetting decreases and increases in value. One (1) year later the parcel has a three thousand dollars (\$3,000) decrease in value in Category 21 and a one thousand dollars (\$1,000) increase in Category 42 value. The base value decreases two thousand dollars (\$2,000) to ninety eight thousand dollars (\$98,000).~~ (3-31-22)

iii. ~~Case 3: Future increase in value following decreases. One (1) year after the parcel in Case 2 has a base value reduced to ninety eight thousand dollars (\$98,000), the value of the parcel increases by five thousand dollars (\$5,000) which is the net of category changes. The base value remains at ninety eight thousand dollars (\$98,000).~~ (3-31-22)

c. Adjustments to base value - splits and combinations. Before other adjustments can be made, the most recent base value must be adjusted to reflect changes in each parcel's legal description. This adjustment ~~shall be~~ is calculated as described in the following subsections: (3-31-22)( )

i. When a parcel has been split, the most recent base year value is transferred to the new parcels, making sure so that the new total equals the most recent base year value. Proportions used to determine the amount of base value assigned to each of the new parcels ~~shall be~~ are based on the value of the new parcels had they existed in the year preceding the year for which the value of the new parcels is first established: (3-31-22)( )

ii. When a parcel has been combined with another parcel, the most recent base year values are added together: and (3-31-22)( )

iii. When a parcel has been split and combined with another parcel in the same year, the value of the split ~~shall be~~ is calculated as set forth in Subparagraph 804.02.c.i. and then the value of the combination ~~will be~~ is calculated as set forth in Subparagraph 804.02.c.ii. (3-31-22)( )

d. Adjustments to base values when exempt parcels become taxable. Base values ~~shall be~~ are adjusted as ~~described in the~~ following s subsections: (3-31-22)( )

i. ~~Fully exempt parcels at time of RAA establishment.~~ When a parcel that was exempt at the time the RAA revenue allocation area was established becomes taxable, the base value is ~~to be~~ adjusted upwards to reflect the estimated value of the formerly exempt parcel as it existed at the time the RAA revenue allocation area was established: (3-31-22)( )

ii. ~~Partially exempt parcels losing the speculative value exemption.~~ When a partially exempt parcel with a speculative value exemption that applies to farmland within the RAA becomes fully taxable, the base value of the RAA ~~shall be~~ adjusted upwards by the difference between the taxable value of the parcel for the year in which the exemption is lost and the taxable value of the parcel included in the base value of the RAA. For example, assume a

~~parcel of farmland within an RAA had a taxable value of five hundred dollars (\$500) in the year the RAA base value was established. Assume also that this parcel had a speculative value exemption of two thousand dollars (\$2,000) at that time. Two (2) years later the parcel is reclassified as industrial land, loses the speculative value exemption, and has a current taxable value of fifty thousand dollars (\$50,000). The base value within the RAA would be adjusted upwards by forty nine thousand five hundred dollars (\$49,500), the difference between fifty thousand dollars (\$50,000) and five hundred (\$500). The preceding example applies only in cases of loss of the speculative value exemption that applies to land actively devoted to agriculture and does not apply to timberland. Site improvements, such as roads and utilities, that become taxable after the loss of the speculative value exemption are not to be added to the base value. For example, if, in addition to the fifty thousand dollars (\$50,000) current taxable value of the undeveloped land, site improvements valued at twenty five thousand dollars (\$25,000) are added, the amount reflected in the base value remains fifty thousand dollars (\$50,000), and the additional twenty five thousand dollars (\$25,000) is added to the increment value. In addition, this example applies only to land that loses the speculative value exemption as a result of changes occurring in 2010 or later and first affecting taxable values in 2011 or later. Parcels that lost speculative value exemptions prior to 2010 had base value adjustments as described in Subparagraph 804.02.d.iii. of this rule.~~ (3-31-22)

~~iii. Partially exempt parcels other than those losing the speculative value exemption. Except as provided in Subparagraph 804.02.d.vi. of this rule, when a partially exempt parcel, other than one subject to the speculative value exemption that applies to farmland, within the RAA revenue allocation area becomes fully taxable, the base value of the RAA shall be revenue allocation area is adjusted upwards by the difference between the value that would have been assessed had the parcel been fully taxable in the year the RAA revenue allocation area was established and the net taxable value of the parcel included in the base value of the RAA. For example, assume a residential parcel within an RAA had a market value of one hundred thousand dollars (\$100,000), a homeowner's exemption of fifty thousand dollars (\$50,000), and a taxable value of fifty thousand dollars (\$50,000) in the year the RAA base value was established. After five (5) years, this parcel is no longer used for owner-occupied residential purposes and loses its partial exemption. At that time the parcel has a taxable value of one hundred eighty thousand dollars (\$180,000). The base value within the RAA would be adjusted upwards by fifty thousand dollars (\$50,000) to one hundred thousand (\$100,000) to reflect the loss of the homeowner's exemption, but not any other value increases. revenue allocation area;~~ (3-31-22)(\_\_\_\_)

~~iv.i. Partially exempt properties for which the amount of the partial exemption changes. For partially exempt properties that do not lose an exemption, but for which the amount of the exemption changes, there shall be is no adjustment to the base value, unless the current taxable value is less than the most recent base value for the property. For example, assume a home has a market value of two hundred thousand dollars (\$200,000) and a homeowner's exemption of one hundred thousand dollars (\$100,000), leaving a taxable value of one hundred thousand dollars (\$100,000), all of which is base value. The following year the homeowner's exemption limit changes to ninety thousand dollars (\$90,000), so the property's taxable value increases to one hundred ten thousand dollars (\$110,000). The base value remains at one hundred thousand dollars (\$100,000). Alternatively, assume the property in the preceding example increases in market value to two hundred twenty thousand dollars (\$220,000) and the homeowner's exemption drops to ninety thousand dollars (\$90,000) because of the change in the maximum amount of this exemption. The base value remains at one hundred thousand dollars (\$100,000). Finally, assume the property decreases in value to one hundred eighty eight thousand dollars (\$188,000) at the same time the homeowner's exemption limit changes to ninety thousand dollars (\$90,000). The property now has a taxable value of ninety eight thousand dollars (\$98,000), requiring an adjustment in the base value to match this amount, since it is lower than the original base value of one hundred thousand dollars (\$100,000).~~ (3-31-22)(\_\_\_\_)

~~iv. Change of exempt status. Except as provided in Subparagraph 804.02.d.vi. of this rule, when a parcel that is taxable and included in the base value at the time the RAA revenue allocation area is established subsequently becomes exempt, the base value is reduced by the most current value of the parcel included in the base value. If this parcel subsequently becomes taxable, the base value is ~~to be~~ adjusted upward by the same amount that was originally subtracted; and. For example, assume a land parcel had a base value of twenty thousand dollars (\$20,000). One (1) year later the parcel has a value of nineteen thousand dollars (\$19,000), so the base value is reduced to nineteen thousand dollars (\$19,000). Three (3) years later, an improvement valued at one hundred thousand dollars (\$100,000) was added. The land at this later date had a value of thirty thousand dollars (\$30,000). Both land and improvements were purchased by an exempt entity. The base would be reduced by nineteen thousand dollars (\$19,000). Five (5) years later, the land and improvement becomes taxable. The base value is to be adjusted upwards by nineteen thousand dollars (\$19,000).~~ (3-31-22)(\_\_\_\_)

~~vi. Special case for exemption provided in Section 63-602NN, Idaho Code. Upon loss of the exemption, any newly taxable value in excess of the taxable value of the property in the year immediately preceding the first year of the exemption is to be added to the increment value provided the property was within an RAA when the exemption was granted and remains within the RAA at the time the exemption expires. If the parcel was annexed to an RAA during the period of the exemption, the value that would have been added to the base value at the time of annexation had the property not received the exemption would be added to the base at the time the exemption expires, while any remaining taxable value would be added to the increment. If the exemption has been granted in part, the adjustments provided in this subparagraph shall only apply to the portion of the property granted the exemption.~~ (3-31-22)

~~v. Assignment of expiring exemption value to base or increment in revenue allocation areas: ( )~~

~~(1) When a parcel is part of the base value of a new revenue allocation area and subsequently receives the exemption provided in Section 63-602NN, Idaho Code, the exempt value is added to increment value upon loss of the exemption: ( )~~

~~(2) If the parcel were annexed into a revenue allocation area while the plant investment was exempt under Section 63-602NN, Idaho Code, once the exemption expires, the value of the plant investment is added to the base assessment roll; and ( )~~

~~(3) If the plant's development was initiated or completed before the formation of the revenue allocation area, the value of the taxable improvement is added to the base assessment roll upon loss of the exemption. ( )~~

~~e. Adjustments to base values when property is removed. Base values are to be adjusted downward for real, personal, and operating property removed from the RAA revenue allocation area. Property shall be is considered removed only under the conditions described in the following subsections: conditions: (3-31-22)( )~~

~~i. For real property, all of the entire improvement is physically removed from the RAA, provided that there is no revenue allocation area without replacement of said improvement during the year the original improvement was removed. If said improvement is replaced during the year of removal, the reduction in base value will be is calculated by subtracting the value of the new improvement from the current base value of the original improvement, provided that such reduction is not less than zero (0); (3-31-22)( )~~

~~ii. For personal property, all of the personal property associated with one (1) parcel is physically removed from the RAA revenue allocation area or any of the personal property associated with a parcel becomes exempt. In the case of exemption applying to personal property, the downward adjustment will first be applied to the increment value and then, if the remaining taxable value of the parcel is less than the most current base value, to the base value. Assume, for example that a parcel consists entirely of personal property with a base value of twenty thousand dollars (\$20,000) and an increment value of ninety thousand dollars (\$90,000). The next year the property receives a one hundred thousand (\$100,000) personal property exemption. The increment value is reduced to zero and the base value is reduced to ten thousand dollars (\$10,000); and (3-31-22)( )~~

~~iii. For operating property, any of the property under a given ownership is removed from the RAA revenue allocation area. (3-31-22)( )~~

~~f. Adjustments to base value for annexation. When property is annexed into an RAA revenue allocation area, the base value in the RAA shall be revenue allocation area is adjusted upwards to reflect the value of the annexed property as of January 1 of the year in which the annexation takes effect. As an example, assume that parcels with current taxable value of one million dollars (\$1,000,000) are annexed into an RAA with an existing base value of two million dollars (\$2,000,000). The base value of the RAA is adjusted upwards to three million dollars (\$3,000,000). (3-31-22)( )~~

~~g. Adjustments to increment values. In addition to the adjustment illustrated in Subparagraph 804.02.e.ii. of this rule, decreases in total parcel value below the initial base value decrease the base value for the parcel. This leads to greater increment value if the parcel increases in value in future years. For example, if a parcel with a initial base value of one hundred thousand dollars (\$100,000) decreases in value to ninety five thousand~~

dollars (\$95,000), but later increases to ninety-eight thousand dollars (\$98,000), an increment value of three thousand dollars (\$3,000) is generated. If the same parcel increases in value to one hundred two thousand dollars (\$102,000) after the decrease to ninety-five thousand dollars (\$95,000), the increment value would be seven thousand dollars (\$7,000). (3-31-22)(\_\_\_\_)

**hg.** Apportioning operating property values. For operating property, the original base value shall be is apportioned to the RAA revenue allocation area on the same basis as is used to apportion operating property to taxing districts and units. The operating property base value shall be adjusted as required under Section 50-2903, Idaho Code. (3-31-22)(\_\_\_\_)

**03. Levy Computation for Taxing Districts Encompassing RAAs Within Urban Renewal Districts Revenue Allocation Areas.** Beginning in 2008, levies shall be are computed in one (1) of two (2) ways as follows: (3-31-22)(\_\_\_\_)

**a.** For taxing district or taxing unit funds other than those meeting the criteria listed in Subsection 804.05 of this rule Section 50-2908, Idaho Code, and the levies authorized pursuant to Sections 33-317A and 33-909, Idaho Code, the property tax levy shall be is computed by dividing the dollar amount certified for the property tax portion of the budget of the fund by the market net taxable value for assessment purposes of all taxable property within the taxing district or unit, including the base value of each parcel on the current base assessment roll (base value), but excluding the increment value. For example, if the taxable value of property within a taxing district or unit is one hundred million dollars (\$100,000,000) but fifteen million dollars (\$15,000,000) of that value is increment value, the levy of the taxing district must be computed by dividing the property tax portion of the district's or unit's budget by eighty-five million dollars (\$85,000,000). (3-31-22)(\_\_\_\_)

**b.** For taxing district or taxing unit funds meeting the criteria listed in Subsections 804.05 and 804.07 of this rule Section 50-2908, Idaho Code, and the levies authorized pursuant to Sections 33-317A and 33-909, Idaho Code, the property tax levy shall be is computed by dividing the dollar amount certified for the property tax portion of the budget of the fund by the market net taxable value for assessment purposes of all taxable property within the taxing district or unit, including the applicable increment value as prescribed in Section 50-2908, Idaho Code. Given the values in the example in Paragraph 804.03.a. of this rule, the levy would be computed by dividing the property tax portion of the fund by one hundred million dollars (\$100,000,000). (3-31-22)(\_\_\_\_)

**04. Modification of an Urban Renewal Plan.** Except when inapplicable as described in Paragraphs 804.04.a., b., or c., or d. of this rule, when an authorized municipality passes an ordinance modifying an urban renewal plan containing a revenue allocation financing provision area, for the tax year immediately following the year in which the modification occurs, the base value of property in the RAA shall be revenue allocation area is reset by being adjusted to reflect the current net taxable value of the property. All modifications to boundaries of RAAs must comply with the provisions of Rule 225 of these rules. (3-31-22)(\_\_\_\_)

**a.** Modification by consolidation of RAA revenue allocation areas. If such modification involves combination or consolidation of two (2) or more RAA revenue allocation areas, the base value shall be is determined by adding together independently determined current base values for each of the areas to be combined or consolidated. The current net taxable value of property in an area not previously included in any RAA shall be added to determine revenue allocation area is included in the total current base value for the consolidated RAA revenue allocation area. (3-31-22)(\_\_\_\_)

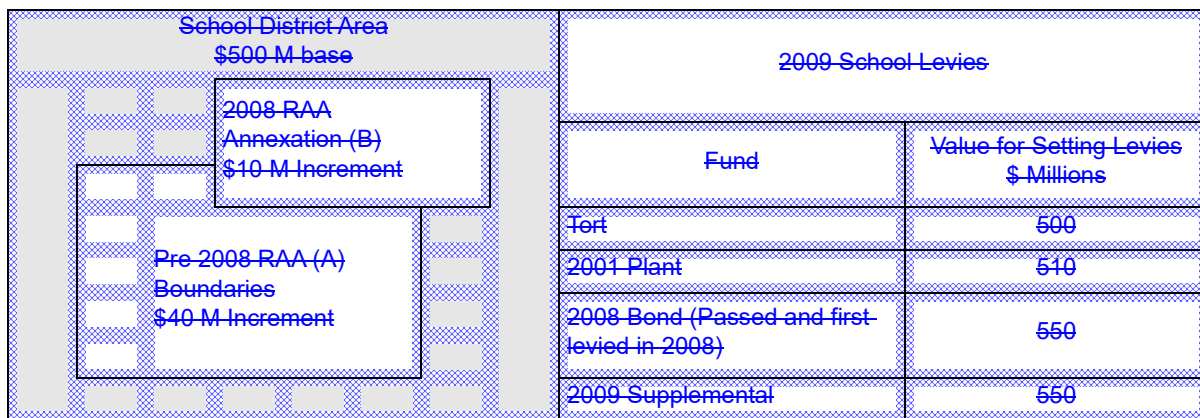
**b.** Modification by annexation. ( )

**i.** If an RAA revenue allocation area is modified by annexation, the current net taxable value of property in the area annexed shall be added to is included in the most current base value determined for the RAA revenue allocation area prior to the annexation: (3-31-22)(\_\_\_\_)

**ii.** For bond levies described in Paragraphs 804.05.b., c., or d. of this rule approved prior to December 31, 2007, and included within the boundaries of a revenue allocation area by a change in the boundaries of either the revenue allocation area or the area subject to the bond levy by the taxing district or unit fund after December 31, 2007, the property tax levy shall will be computed by dividing the dollar amount certified for the property tax portion of the budget of the fund by the market value for assessment purposes of all taxable property within the taxing district

or unit, including the increment value. The example below shows the value to be used for setting levies for various funds within an urban renewal district “A” that annexes area “B” within a school district. Area (B) was annexed after December 31, 2007. Therefore, the Area (B) increment was added back to the base for all funds shown except the tort fund. The Area (A) increment value was added back to the base for the bond and override funds which were certified or passed after December 31, 2007, as described in Paragraph 804.03.b. of this rule;

2009 Value Table	School District (base only)	\$500 Million
	RAA (A) increment	\$40 Million
	RAA annexation (B) increment	\$10 Million



(3-31-22)( )

iii. An annexation permitted pursuant to ~~s~~Section 50-2033, Idaho Code, to an RAA revenue allocation area in existence prior to July 1, 2016, ~~shall does~~ not change the status of the ~~urban renewal agency or the RAA and its related plan revenue allocation area~~ regarding inapplicability of the base reset or attestation provisions found in ~~s~~Section 50-2903A, Idaho Code. (3-31-22)( )

c. Other modifications – attestation requirements. Modification resulting in adjustment of base value to reflect the current ~~net~~ taxable value of the property within the ~~RAA shall~~ revenue allocation area ~~is~~ not ~~be~~ deemed to have occurred when the urban renewal agency attests to having made no modifications to a plan or is not required to attest to plan modifications. ~~Certain u~~Urban renewal agencies ~~are~~ required to attest annually to having made or not made plan modifications. ~~These~~ include:- (3-31-22)( )

i. Urban renewal agencies that establish new ~~RAA revenue allocation areas~~ on or after July 1, 2016, ~~provided however that such agencies are only required to attest to having made or not made modifications~~ with regard to any new ~~RAA revenue allocation area; and~~ (3-31-22)( )

ii. Urban renewal agencies that enact new plans including an ~~RAA revenue allocation area~~ on or after July 1, 2016. (3-31-22)( )

d. Modifications when there is outstanding indebtedness. When any urban renewal agency attests to having had a plan modification that is not an exception identified in Paragraphs 804.04.a. ~~1~~ or b. ~~1~~, or c. of this rule or fails to provide the required attestation, the base value ~~will be~~ ~~is~~ determined without regard to the modification, provided that the agency certifies to the ~~State~~ Tax Commission by June 30 of the tax year that there is outstanding indebtedness as defined in Section 50-2903A(2), Idaho Code. In this case, the allocation of revenue to the urban renewal agency ~~shall be limited to~~ ~~is~~ the amount certified as necessary to pay the indebtedness. Any additional revenue ~~shall be~~ ~~is~~ distributed to each taxing district or unit in the same manner as property taxes. Such revenue ~~shall be treated as~~ ~~is considered~~ property tax revenue for the purpose of the limitations in Section 63-802, Idaho Code. The



county clerk will notify the Tax Commission of the amount so distributed for each year beginning July 1 of the prior year and ending June 30 of the current tax year. (3-31-22)( )

~~e. Failure to submit attestation regarding plan modification.~~ For any urban renewal agency subject to the requirements of Section 50-2903A, Idaho Code, ~~attestation of plan modification or attestation that there has been no plan modification is required to be made to the State Tax Commission by the first Monday of June each year.~~ Except as provided in Paragraph 804.04.d. of this rule, if such agency fails to provide the required attestation ~~by the first Monday of June each year~~, the State Tax Commission will ~~proceed to~~ reset the base value or limit allocation of property tax to the urban renewal agency as ~~otherwise~~ required in Section 50-2903A, Idaho Code. Provided there is no new plan, an urban renewal agency with a plan including one (1) or more revenue allocation ~~financing provisions (RAAs) areas~~ in existence prior to July 1, 2016, ~~shall will~~ only be required to provide this attestation or be subject to base resetting or other limitations for failure to submit this attestation with respect to new ~~RAA revenue allocation areas~~ formed on or after July 1, 2016. ~~If such an agency develops a new plan, on or after July 1, 2016, or provides for a new RAA under an existing plan, the agency shall be subject to the attestation requirements and other provisions of Section 50-2903A, Idaho Code, with respect to any RAAs formed July 1, 2016 or later.~~ (3-31-22)( )

f. Notice of actions related to base reset or revenue allocation limitations. ( )

i. The Tax Commission will notify any urban renewal agency, ~~and affected county and city officials,~~ within thirty (30) days of the time the Tax Commission receives an attestation that an urban renewal plan has been modified, or by July 30 in any year in which an attestation is required but none is received, of the Tax Commission's intent to initiate the process to reset the base value in the following tax year. ~~Said notice will be provided to affected county commissioners and city officials.~~ (3-31-22)( )

ii. In the case of base reset due to failure to ~~provide the required~~ attestation ~~to a modification or to having made no modification in an urban renewal plan, despite being required to provide this attestation,~~ the Tax Commission will notify the agency, ~~and county and city officials will be so notified and will be given an opportunity to provide the necessary attestation. This further notice will provide that,~~ that the base is to be reset in the immediate following year if the Tax Commission has not received the attestation by December 31 of the ~~current~~ tax year, ~~the base will be reset in the immediate following year.~~ (3-31-22)( )

iii. In the case of a revenue allocation limitation pursuant to Section 50-2913, Idaho Code, notice ~~will be is~~ provided to the agency, county, and city officials including the county assessor and county clerk, within thirty (30) days of the due date of the plan or plan update. (3-31-22)( )

iv. In the case of a revenue allocation limitation due to a plan modification but outstanding indebtedness, notice ~~will be is~~ provided to the agency and county and city officials, including the county assessor and county clerk, within thirty (30) days of receipt by the Tax Commission of the certification of the amount needed to repay the indebtedness. (3-31-22)( )

v. Once decisions about base reset or revenue allocation limitations are final, additional notice ~~will be is~~ sent to the agency and county and city officials, including the county assessor and county clerk, within thirty (30) days of any such final decision. Said notice will include an identification of the year in which the reset or revenue allocation limitation will take effect and the amount of any revenue allocation limitation. (3-31-22)( )

~~05. Criteria for Determining Whether Levies for Funds Are to Be Computed Using Base Value or Market Value for Assessment Purposes.~~ Beginning in 2008, levies to be certified for taxing district or unit funds meeting the following criteria or used for any of the following purposes will be computed as described in Paragraph 804.03.b. of this rule. (3-31-22)

~~a. Refunds or credits pursuant to Section 63-1305, Idaho Code, and any school district judgment pursuant to Section 33-802(1), Idaho Code, provided the refunds, credits, or judgments were pursuant to actions taken no earlier than January 1, 2008;~~ (3-31-22)

~~b. Voter approved overrides of the limits provided in Section 63-802, Idaho Code, provided such overrides are for a period not to exceed two (2) years and were passed after December 31, 2007, or earlier as provided in the criteria found in Paragraph 804.05.e.;~~ (3-31-22)

~~e. Voter approved bonds and plant facilities reserve funds passed after December 31, 2007, or earlier as provided in the criteria found in Paragraph 804.05.e.; (3-31-22)~~

~~d. Voter approved school or charter school district temporary supplemental maintenance and operation levies passed after December 31, 2007; or (3-31-22)~~

~~e. Levies described in Paragraphs 804.05.b., c., or d. approved prior to December 31, 2007, and included within the boundaries of a revenue allocation area by a change in the boundaries of either the revenue allocation area or the area subject to the levy by the taxing district or unit fund after December 31, 2007; (3-31-22)~~

~~f. Levies authorized by Section 33-317A, Idaho Code, known as the cooperative service agency school plant facility levy. (3-31-22)~~

~~g. Levies authorized by Section 33-909, Idaho Code, known as the state authorized plant facility levy. (3-31-22)~~

~~h. Levies authorized by Section 33-805, Idaho Code, known as school emergency fund levy. (3-31-22)~~

**065. Setting Levies When There is a De-annexation From an RAA Revenue Allocation Area.** In any de-annexation from an ~~RAA revenue allocation area~~, levies ~~will be~~ **are** set using the base value and, as indicated in Subsection 804.05~~3~~ of this rule, the appropriate amount of increment value associated with the parcels and operating property remaining in the ~~RAA revenue allocation area~~ after the de-annexation, provided that the de-annexation is in effect no later than September 1 of the current tax year ~~and provided further that the de-annexation is approved by the Tax Commission in accordance with Section 225 of these rules.~~ (3-31-22)(    )

**076. Setting Levies When There is a Refinancing of Bonded Indebtedness.** Refinancing of bonded indebtedness in existence as of December 31, 2007, ~~does not create new bonded indebtedness for any taxing district with respect to the levy setting criteria in Subsection 804.053 of this rule.~~ (3-31-22)(    )

~~**087. Cross Reference.** The county auditor shall certify the full market value by taxing district as specified in Rule 995 of these rules. See also Rule 802 and 805 of these rules for calculation of new construction given de-annexation from an RAA and see Rule 805 of these rules for penalties for failure to submit plans. (3-31-22)(    )~~

**805. PENALTY FOR FAILURE TO COMPLY WITH REPORTING REQUIREMENTS (RULE 805).**  
Sections 63-802A, 50-2913, 67-~~450E~~**1076**, Idaho Code

**01. Property Tax Limitation Penalties for Non-compliance.** Penalties ~~applies~~ **apply** to any taxing district that fails, by April 30 of each year, to provide each appropriate county clerk with written notification of the budget hearing information required pursuant to Section 63-802A, Idaho Code, or, ~~beginning in 2015,~~ that is found ~~by September 1 to be~~ out of compliance with the requirements of ~~s~~Section 67-~~450E~~**1076**, Idaho Code. ~~There will be no increase in the portion of the budget subject to the limitations of Section 63-802, Idaho Code. This restriction will apply to otherwise available budget increases from the three percent (3%) growth factor, new construction or change of land use classification, and annexation. There will also be no increase resulting from adding previously accrued foregone increase amounts to the budget and the total accrued foregone amount will not change for a non-complying district.~~ (3-31-22)(    )

~~**02. Exceptions.** Voter approved budget increases permitted pursuant to Section 63-802(4), Idaho Code, will be allowed. (3-31-22)~~

~~**032. County Clerks to Submit Lists.** By the fourth Monday of May, each county clerk will submit to the Tax Commission a list of taxing districts out of compliance with the requirements of Section 63-802A, Idaho Code, ~~along with other documents required pursuant to Rule 803 of these rules and Section 63-808, Idaho Code.~~ (3-31-22)(    )~~

~~**04. Notification by Tax Commission.** By September 3 each year, the Tax Commission will provide each county clerk a list of all taxing districts in the county that are subject to the penalties in Section 63-802A, Idaho Code. The Tax Commission will also notify each county clerk when a previously non-complying taxing district is found to be in compliance with the requirements of Section 67-450E, Idaho Code. Such notification will be done by September 3 of the year in which the compliance status is re-established. (3-31-22)~~

~~**053. Additional Penalties.** For taxing districts that fail to comply with the requirements of Section 67-450E, Idaho Code, additional penalties affect the distribution of sales tax money for which the district may be eligible may be withheld. See Rule 995 of these rules. (3-31-22)( )~~

~~**064. Applicability to Urban Renewal Agencies.** Urban renewal agencies failing to annually submit to the Tax Commission plans as required pursuant to Section 50-2913, Idaho Code, will be arc subject to penalties found in that Ssection. (3-31-22)( )~~

~~**a.** Urban renewal agencies having once submitted such plans, and having made no modification or amendment to such plans, may, by December 1 each year, attest to the currency of the previously submitted plan in lieu of re-submitting that plan. ( )~~

~~**b.** Providing the Tax Commission with, and updating links to, plans on urban renewal agency websites will constitute compliance with submittal requirements. ( )~~

~~**806. ELECTION TO CREATE A NEW TAXING DISTRICT -- CLERK'S MAILED NOTICE (RULE 806).**~~

~~Section 63-802C, Idaho Code.~~

~~The sponsors of a proposed new taxing district, including interim abatement districts, will submit an estimate of the first year's property tax budget to the county clerk sixty (60) days prior to the election. When the estimate of the first year's budget is received, the county clerk will estimate the levy rate based on the most recent actual or estimated net taxable value information available. If the sponsors fail to provide the budget information, the county clerk will, for taxing districts with funds subject to maximum levy rates, estimate the amount of property taxes to be raised in the proposed district by multiplying the maximum levy rate permitted by law times the most current available estimate of net taxable value. Pertaining to the estimate of the first year's levy only, the estimated levy rate, computed based on the information supplied by the sponsors, or the maximum levy rate permitted by law if the information has not been supplied, will be The estimated levy rate is used to compute the estimated taxes per one hundred thousand dollars (\$100,000) of net taxable value. The maximum levy rate means the sum of every maximum statutory levy rate for any fund subject to such rates limits for the taxing district type. (3-31-22)( )~~

~~**807. LEVY BY NEW TAXING UNITS -- DUTIES OF AUDITOR (RULE 807) (RESERVED)**~~

~~Section 63-807, Idaho Code~~

~~**01. Levy by Newly Formed or Organized Taxing Districts.** Regardless of whether other formation or organization requirements have been met, newly formed or organized taxing districts that fail to meet the requirements of Rule 225 of these rules, will not be authorized to levy property taxes. (3-31-22)~~

~~**02. Levy by Taxing Districts Altering Boundaries.** Regardless of whether other boundary alteration requirements have been met, taxing districts that alter their boundaries and fail to meet the requirements of Rule 225 of these rules, will not be authorized to levy property taxes within any area added to the district. If area is withdrawn from any district that fails to meet the requirements of Rule 225 of these rules, any levy by the district applies to taxable property within the withdrawn area. (3-31-22)~~

~~**03. Levy Considered Not Authorized.** If a taxing district fails to meet the requirements of Subsection 807.01 or 807.02 of this rule, the district's levy or its levy within an altered area will be considered not authorized, pursuant to Section 63-809, Idaho Code. (3-31-22)~~

~~**808. ADDITIONAL DOCUMENTATION BY TAXING DISTRICTS NOT LEVYING AGAINST ALL TAXABLE PROPERTY (RULE 808).**~~

~~Sections 25-2401, 31-1425, 31-3908A, 42-3115, 42-3708, 42-4116, 50-3113, 63-510 63-803, Idaho Code~~

**01. Tax Levy Rate Calculations and Documentation of Categories to be Taxed.** ~~For any taxing district which does not levy property taxes against all taxable property within the district, the tax levy is to be calculated by dividing the taxing district's property tax budget by the taxable value of property against which the levy is to be applied. If the taxing district elects the property categories to be taxed, documentation of such election must be either:~~ (3-31-22)

~~a. If initiated, submitted by the taxing district and not currently available to each county clerk, submitted by the taxing district to each county clerk, who will then submit the documentation to the Tax Commission by the first Monday in August in the first year in which the election takes place or in 2012, and in any year in which the categories elected to be taxed change; or.~~ (3-31-22)( )

~~b. If elected by an action of the Board of County Commissioners, submitted by the county clerk to the Tax Commission by the first Monday in August in the first year in which the election takes place or in 2012, and in any year in which the categories elected to be taxed change.~~ (3-31-22)

**02. Fire Districts.** ~~Fire districts may levy against property of public utilities provided there is an agreement between the fire district and the public utility to do so. In addition, fire districts may exempt all or a portion of unimproved real property and taxable personal property.~~ (3-31-22)( )

~~a. Public Utility Agreements. Written agreements with public utilities permitting property taxes to be levied for fire protection of all or a portion of the property of the public utility, pursuant to Section 31-1425(1), Idaho Code, must be submitted as documentation required in Subsection 808.01 of this rule. Such agreements need only be submitted once, provided there is no change and such agreements are on file with the county clerk and Tax Commission in 2012.~~ (3-31-22)( )

~~b. Exemption of all or a portion of unimproved real property and taxable personal property. Exemption of all or a portion of unimproved real property and taxable personal this property must be documented in the fire district's formation ballot or other documents creating the fire district or by an ordinance enacted pursuant to Section 31-1425(2), Idaho Code, by the Board of County Commissioners, of each county in which the fire district is located. If the county does not have the necessary documentation, it must be submitted by the fire district by the third Monday in July, 2012 or, for fire districts created during or after 2012, by the third Monday in July of the first year in which the fire district intends to levy property taxes on this basis. If such documentation is not available, the fire district will be presumed to be levying is against all otherwise taxable real and personal locally assessed property.~~ (3-31-22)( )

**03. Flood Control, Levee, Watershed Improvement, Community Infrastructure Districts, and Herd Districts.** ~~Property tax may only be levied against real property.~~ No special documentation is required. (3-31-22)( )

**04. Ambulance Districts.** Exemption of all or a portion of unimproved real property and taxable personal property must be is documented by an ordinance enacted pursuant to Section 31-3908A, Idaho Code, by the county commissioners of the county in which the ambulance district is located. If such Absent documentation is not available, the ambulance district will be presumed to be levying is against all otherwise taxable real and personal property. (3-31-22)( )

**05. Abstracts Showing Value of Property Against Which Levy is to be Applied.** For taxing districts not levying property tax against all otherwise taxable property, abstracts must be submitted as required in Rule 115 of these rules. ( )

**809. CORRECTION OF ERRONEOUS LEVY (RULE 809), (RESERVED)**  
Sections 63-809, 63-810, Idaho Code

~~**01. Errors Discovered by the Fourth Monday in October.** When the Tax Commission receives by the fourth Monday in October from a board of county commissioners notice of corrections for unintentional clerical, mathematical, or electronic errors under Section 63-810, Idaho Code, the Tax Commission will make the corrections to any approved levies by the fourth Monday in October.~~ (3-31-22)

~~02. **Errors Discovered After the Fourth Monday in October.** When the Tax Commission receives after the fourth Monday in October and prior to the following February 15 notices of corrections for any unintentional errors, as referenced in Subsection 809.01 of this rule, the Tax Commission will make the corrections and approve the appropriate corrected levies within one (1) week. (3-31-22)~~

~~03. **Cross Reference.** For information on reporting of corrections for unintentional clerical, mathematical, or electronic errors, see Sections 63-809 and 63-810, Idaho Code, and Rule 509 of these rules. (3-31-22)~~

**810. ~~(RESERVED)~~PROPERTY TAX RELIEF.**  
Sections 33-911, 57-810, 63-724, 63-902, 63-315, Idaho Code.

**01. Procedures Regarding School District Facilities Fund.** The Tax Commission will notify each county clerk no later than the first Monday in September each year of the amounts being distributed annually, pursuant to Section 33-911, Idaho Code, to each school district. Amounts received by each school district must be reported on the L2 form and subtracted from property tax otherwise to be certified for the following funds: ( )

**a. Bonds.** ( )

**b. Temporary Supplemental Funds.** ( )

**02. Additional School District Facilities Funds.** If the amount received by the school district from the school district facilities fund exhausts the payments for bonds and temporary supplemental funds, the remaining sums of money are saved in a reserve account and not subtracted from other school district levies. ( )

**03. Procedures Regarding Homeowner Property Tax Relief.** ( )

**a. The homeowner property tax relief roll certified in August will be the preliminary roll and will include the market value, amount of homestead exemption granted, and net taxable value for the portion of each homestead, as defined in Section 63-701, Idaho Code, granted the homestead exemption.** ( )

**i. No property granted the homestead exemption after the second Monday in July each year is to be included in this roll.** ( )

**ii. No improvement granted the homestead exemption on property subject to occupancy tax, as provided in Section 63-317, Idaho Code, is to be included in this roll. Land associated with such improvement may be included if it is part of the homestead and if it has a homestead exemption granted by the second Monday in July.** ( )

**iii. The amount of each homestead property's net taxable value attributable to increment and base, as defined in Section 50-2903, Idaho Code, will be shown on this roll.** ( )

**iv. The amount of taxable value to which tax levies will apply will be shown on this roll. In the case of taxing districts that do not levy property tax against all otherwise taxable property, the net taxable value of the homestead applicable to each taxing district will be shown.** ( )

**b. The completed homeowner property tax relief roll certified by the fourth Monday in October will include the following information in addition to the information provided in Subsection 03 of these rules.** ( )

**i. The current year's tax levy applicable to the homestead and eligible for homeowner property tax relief pursuant to Section 63-724, Idaho Code.** ( )

**ii. The amount of property taxes levied on the homestead based on levies eligible for homeowner property tax relief.** ( )

**iii. The total homeowner property tax relief for all eligible properties in the county.** ( )

iv. The total amount of homeowner property tax relief based on increment value. ( )

c. Actual tax relief provided to each homestead and shown on property tax notices will be based on the percentage and amounts certified to the county by the Tax Commission as provided in Section 63-724, Idaho Code. ( )

d. The provision in Section 63-724, Idaho Code, that requires homeowner property tax relief monies to be distributed in the same manner as property tax includes allocation to urban renewal agencies and all taxing districts as otherwise required. ( )

**04. Procedures for Additional Property Tax Relief.** The procedures in this subsection pertain to the distributions to each county pursuant to Section 57-810(2), Idaho Code, other than the amounts distributed to the school district facilities fund. ( )

a. The amount of property tax levied for the current year and approved by the Tax Commission will be the total amount based on approved property tax budgets for all taxing districts and amounts otherwise allocated to urban renewal agencies in each county. When this amount is determined for taxing districts located in more than one (1) county, each county's share will be based on the prorated amount of the district's property tax being levied in that county. ( )

b. In addition to the market values submitted to the Tax Commission pursuant to Section 63-510, Idaho Code, each county auditor will include the net taxable value and increment value applicable to each urban renewal revenue allocation area within each taxing district. ( )

c. Tax relief amounts provided pursuant to Section 57-810(2), Idaho Code, will be subtracted prior to determining amounts otherwise certified to the Tax Commission on the property tax reduction roll pursuant to Section 63-707, Idaho Code. ( )

**05. Tax Cancellations and Levy Corrections.** Tax cancellations and levy corrections pursuant to Section 63-810, Idaho Code, occurring after certification of tax relief amounts to be paid by the Tax Commission to each county will not alter amounts to be paid by the Tax Commission. Counties receiving tax relief payments that exceed the amount that would have been paid had the tax cancellations or levy corrections been known at the time of the certification of tax relief amounts will remit the excessive amount to the state general fund using the procedure required for homeowner property tax relief overpayments in Section 63-724, Idaho Code. ( )

**811. COMPUTATION OF PROPERTY TAXES (RULE 811).**  
Section 63-811, Idaho Code

~~**01. Duty of the County Auditor.** Upon distribution of the approved final levy rates for the current year from the Tax Commission by the fourth Monday in October, the county auditor will deliver the final levy rates and the total tax charge for each taxing district or unit that is levying for the current year within the county to the county treasurer by the first Monday in November for the property roll and operating property roll, by the first Monday in December for the subsequent property roll, and by the first Monday in March of the following year for the missed property roll.~~ (3-31-22)

~~**02. Duty of the County Treasurer.** Upon receipt of the final levy rates and total tax charge for each taxing district or unit, the county treasurer will compute the individual tax charge for each taxable property in the county and prepare and mail the property tax bill for each taxable property according to Section 63-902, Idaho Code, and Rule 902 of these rules.~~ (3-31-22)

**812. -- 901. (RESERVED)**

**902. PROPERTY TAX NOTICE AND RECEIPTS - DUTY OF TAX COLLECTOR (RULE 902).**

Sections 63-704 and 63-902, Idaho Code

The tax notice ~~required to be~~ mailed to taxpayers under Section 63-902, Idaho Code, must include taxpayers whose property taxes are ~~to be~~ paid in full as a result of the property tax reduction approved under Section 63-704, Idaho Code. For these taxpayers, the tax notice will show the amount ~~to be~~ paid on behalf of the taxpayer and zero (0) taxes

owed.

(3-31-22)( )

**903. -- 935. (RESERVED)**

**936. CANCELLATION OF TAXES BY BOARD OF COUNTY COMMISSIONERS (RULE 936).**

Section 63-1302, Idaho Code ~~authorizes boards of county commissioners to cancel property taxes that for any lawful reason should not be collected.~~

~~The A board of county commissioners may cancel taxes for double payment of taxes or the double or erroneous assessment of any property for the same year or other errors. Additionally, wWhen the canceled taxes have been paid, the board may refund the taxes. The authority to cancel taxes under Section 63-1302, Idaho Code, extends neither to hardship situations pursuant to Section 63-602AA, Idaho Code, nor to cancellation of tax resulting from unequal or excessive valuation by the assessor. Mere unequal or excessive valuation by the assessor does not make the assessment illegal, nor constitute any lawful reason that the taxes should not be collected. A taxpayer who believes the value placed on his property is excessive must file his appeal with the county board of equalization within the time prescribed by law. A taxpayer seeking relief due to hardship must apply pursuant to Section 63-602AA, Idaho Code.~~

(3-31-22)( )

**937. -- 938. (RESERVED)**

**939. COURT OR BOARD OF TAX APPEALS ORDERED REFUNDS OR CREDITS - LEVY RESTRICTIONS (RULE 939).**

Section 63-1305, Idaho Code-

~~Section 63-1305, Idaho Code, allows taxing districts to certify and levy a judgment levy for an amount equal to property tax refunds or credits ordered by a court or the board of tax appeals and to include such amount with amounts certified and levied under Sections 63-802 through 63-807, Idaho Code. For each affected taxing district, the decision to certify and levy such amounts as necessary to refund property taxes due to a court or the board of tax appeals orders is permissive. For any taxing district to use this provision, amounts to be levied must be certified within the two (2) years immediately following the order becoming final. Any amount, not certified and levied within that two-year period, is lost. In the second year following the order, the amount remaining will be is lost for any taxing district for which such amount is less than one hundred dollars (\$100).~~

(3-31-22)( )

**940. -- 959. (RESERVED)**

**960. DEFINITIONS (RULE 960).-**

Section 63-1701, Idaho Code

**01. Present Use.** Present use means that the land contains trees of a marketable species which are being actively managed to produce a forest crop for eventual harvest and which may be accepted by a commercial mill.

( )

**02. Silviculture.** Silviculture includes the following activities: site preparation, planting, vegetation control, precommercial thinning, commercial thinning, fertilization, mechanical or chemical pest and disease control, pruning, inventorying, cruising, or regeneration surveys, fencing established to protect seedlings, and genetic tree improvement.

( )

**03. Custodial Expenses.** Custodial expenses are some of the expenses incurred in the management of forestlands.

( )

**a. Included Expenses.** Custodial expenses include the following expenses, except as provided in Paragraph 960.03.b of this rule:

( )

**i.** Reforestation expenses are the cost of seeds, seedlings, and planting for the establishment of a forest to the specifications of the Idaho Forest Practices Act (Title 38, Chapter 13, Idaho Code);

( )

**ii.** Road maintenance expenses are those costs necessary to prevent major deterioration or maintain the integrity of forest roads including culvert maintenance, public access control, and erosion prevention, but not including the cost of original construction, opening the road for silviculture, driveway maintenance, or recreation

- access; ( )
- iii. Managing public use expenses are limited to the costs of installing and maintaining gates and signage; ( )
- iv. Forest inventory expenses are the costs of collection and analysis of forest inventory data; ( )
- v. Forest management planning expenses are the costs associated with a geographic information system (GIS) or similar information database and those activities integral to the planning process; ( )
- vi. Facility operations and maintenance expenses are those costs of maintaining and operating facilities necessary for forestland management; ( )
- vii. Environmental analysis and documentation expenses are analysis and documentation costs associated with federal and state environmental requirements; ( )
- viii. Appeals and litigation expenses are those costs associated with litigating items associated with federal and state environmental requirements; ( )
- ix. Land survey expenses are those costs associated with surveying forestland; ( )
- x. Forest fire suppression expenses are the portion of those costs associated with the suppression of wildfires on forestlands borne by the forestland owner, that exceed the annual fire protection fee under Section 38-111, Idaho Code; ( )
- xi. Other management expenses are unspecified costs agreed to by the committee on forestland taxation methodologies (CFTM) and determined to be annualized custodial expenses by the forest management cost study conducted pursuant to Section 63-1705, Idaho Code. ( )
- b.** Excluded Expenses. Custodial expenses exclude the following: ( )
- i. Fertilization; ( )
- ii. Precommercial thinning; ( )
- iii. Tree improvement; ( )
- iv. Genetic improvement; ( )
- v. Site preparation; ( )
- vi. Harvesting; ( )
- vii. Road building; ( )
- viii. Timber harvest layout and silvicultural layout; ( )
- ix. Slash management; ( )
- x. Brush control; and (3-31-22)( )
- xi. Litigation pertaining to Subparagraphs 960.03.b.i. through 960.03.b.xi., of this rule. ( )

**04. Forestland Management Plan.** Forestland management plan means a written management plan reviewed by a professional consulting forester, Idaho Department of Lands private forestry specialist, professional industry forester, or federal government forester, to include eventual harvest of the forest crop. Professional forester is



defined as an individual holding at least a Bachelor of Science degree in forestry from an accredited four (4) year institution. The forestland management plan will include as a minimum: ( )

- a. Date of the plan preparation; ( )
- b. Name, address, and phone number of the land owner, and person preparing and/or reviewing the plan; ( )
- c. The legal description of the property; ( )
- d. A map of the property of not less than 1:24,000 scale; ( )
- e. A general description of the forest stand(s) including species and age classes; ( )
- f. A general description of the potential insect, disease, and fire hazards that may be present and the management systems which will be used to control them; ( )
- g. The forest management plans of the landowner over the next twenty (20) years. ( )

**05. Bare Forestland.** Bare forestland will qualify as forestland only if, within five (5) years after harvest or initial assessment, they are planted or regenerated naturally to minimum stocking levels as specified by the Idaho Forest Practices Act. (Title 38, Chapter 13, Idaho Code). ( )

~~**06. County Weighted Average Forestland Levy Rate.** The county weighted average forestland levy rate is calculated by summing the products of the levy rate times the number of forested acres for each forested tax code area in each county and dividing this sum by the total number of forested acres in all forested tax code areas in each county. (3-31-22)~~

~~**07. Weighted Average Forestland Levy Rate.** The weighted average forestland levy rate is the weighted average forestland levy rate defined in Subsection 960.06 of this rule multiplied by the total number of designated forestland acres in each county. The sum of the product of this calculation for each county in a forest value zone is then divided by the total number of designated forestland acres in the forest value zone. (3-31-22)~~

~~**08. Guiding Discount Rate.** The guiding discount rate will be determined in accordance with procedures found in the User's Guide and derived from ten (10) year treasury constant maturity rates as reported by the federal reserve system, the producer price index (PPI) published by the U.S. bureau of labor statistics, and a risk premium. (3-31-22)~~

~~**09. Real Price Appreciation of Stumpage.** A real price appreciation (RPA) of stumpage in Idaho will be determined in accordance with procedures found in the User's Guide and will be benchmarked to the PPI for softwood logs and bolts as reported by the U.S. bureau of labor statistics, less inflation as reported in the PPI. (3-31-22)~~

~~**106. Joint Ownership.** Joint ownership as used in Subsections 963.01 and 966.01 of these rules includes ownership of a single parcel of forestland by two (2) or more legal entities irrespective of their proportionate ownership interests in the parcel, but will not include the community property interests of a spouse. ( )~~

**961. HOMESITE ASSESSMENT AND FORESTLANDS OF LESS THAN FIVE ACRES AND CONTIGUOUS PARCELS (RULE 961).**  
Sections 63-1702, 63-1703, Idaho Code

**01. Definitions.** The following definitions apply to the valuation of residential parcels that are contiguous to lands classified as forestlands. ( )

- a. Homesite. The "homesite" is that portion of land, contiguous with but not qualifying as forestlands, and the associated site improvements used for residential purposes. ( )

**b.** Associated Site Improvements. The “associated site improvements” include developed access, grading, sanitary facilities, water systems, and utilities. ( )

**02. Homesite Assessment.** Each homesite and residential and other improvements, located on the homesite, will be assessed at market value each year. ( )

**a.** Accepted Assessment Procedures. Market value will be determined through procedures, methods, and techniques recommended by nationally recognized appraisal and valuation associations, institutes, and societies and according to guidelines and publications approved by the Tax Commission. Acceptable techniques include those that are either time tested in Idaho, mathematically correlated to market sales, endorsed by assessment organizations, or widely accepted by assessors in Idaho and other states. ( )

**b.** Appropriate Market and Comparable Selection. The appropriate market is the market most similar to the homesite and improvements located on the homesite. In applying the sales comparison approach, the appraiser should select comparables having actual or potential residential use. ( )

**c.** The value and classification of the homesite will be independent of the classification and valuation of the remaining land. ( )

**03. Forestlands of Less Than Five Acres and Contiguous Parcels.** A parcel of forestland that is less than five (5) acres is not eligible for valuation and taxation as forestland unless ~~the land is contiguous with one (1) or more other parcels of forestland under the same ownership and the contiguous parcels together constitute five (5) acres or more of forestland as defined in Section 63-1701, Idaho Code~~ that parcel is currently granted forestland status, or unless a parcel is created solely by a tax code area boundary or governmental Public Land Survey System boundary of an original parcel with a single property description comprising at least five (5) acres of forestland. The five (5) acre minimum requirement must exclude any homesite. ~~In the following examples each parcel of land is forestland as defined in Section 63-1701, Idaho Code, unless otherwise stated in the example.~~ (3-31-22)

~~**a.** Example 1. A landowner owns a fifteen (15) acre parcel which contains four (4) acres of forestland, nine (9) acres of irrigated row crop, and two (2) acres of homesite. The four (4) acres of forestland is not eligible for valuation and taxation as forestland. (3-31-22)~~

~~**b.** Example 2. A landowner owns five hundred and six (506) acres consisting of one (1) five hundred (500) acre parcel of forestland and six (6) one (1) acre parcels of forestland, that are not contiguous either to one another or to the five hundred (500) acre parcel. The five hundred (500) acre parcel is eligible for valuation and taxation as forestland. The six (6) one (1) acre parcels, are not eligible for valuation and taxation as forestland. (3-31-22)~~

~~**c.** Example 3. A landowner owns five hundred and six (506) acres consisting of one (1) five hundred (500) acre parcel of forestland and six (6) one (1) acre parcels of forestland that are contiguous to the five hundred (500) acre parcel but may or may not be contiguous to one another. The entire five hundred and six (506) acres are eligible for valuation and taxation as forestland. (3-31-22)~~

~~**d.** Example 4. A landowner owns six (6) non-contiguous one (1) acre parcels of forestland. The six (6) one (1) acre parcels are not eligible for valuation and taxation as forestland. (3-31-22)~~

~~**e.** Example 5. A landowner owns six (6) contiguous one (1) acre parcels of forestland. The six (6) one (1) acre parcels are eligible for valuation and taxation as forestland. (3-31-22)~~

**962. TAXATION OF DESIGNATED FORESTLANDS (RULE 962).**  
Section 63-1705, Idaho Code

**01. Forestland Valuation Process.** The process used to determine the forestland value under the productivity option will be as specified in the User’s Guide referenced in Section 63-1701, Idaho Code. ( )

**02. Forest Valuation Zones.** The state will be divided into four (4) forest valuation zones: ( )

- a. ZONE 1 - Boundary, Bonner, Kootenai counties. ( )
- b. ZONE 2 - Benewah, Shoshone, Latah, Clearwater, Nez Perce, Lewis, Idaho counties. ( )
- c. ZONE 3 - Adams, Valley, Washington, Payette, Gem, Boise, Canyon, Ada, Elmore, Camas, Blaine, Gooding, Lincoln, Jerome, Minidoka counties. ( )
- d. ZONE 4 - The remaining nineteen (19) counties. ( )

**03. Classification of Forestlands.** In all forest valuation zones, there will be three (3) separate productivity classes of forestland: poor, medium, and good. These broad classes are related in the following manner by definition to the “Meyer Tables” published in “Yield of Even-Aged Stands of Ponderosa Pine” and “Haig Tables” published in “Second-Growth Yield, Stand, and Volume Table for the Western White Pine Type” as both documents are referenced in Rule 003 of these rules. These classes apply to forestland which may or may not be stocked with commercial or young growth timber. ( )

a. Poor productivity class is defined as forestland having a mean annual increment, MAI, of one hundred twenty-five (125) board feet per acre per year, based on a seventy-three (73) year rotation. This productivity class includes western white pine site index 35-45 and Ponderosa pine site index 45-80. One hundred twenty-five (125) board feet per acre MAI will be used in the valuation process. ( )

b. Medium productivity class is defined as forestland having a mean annual increment, MAI, of two hundred twenty-five (225) board feet per acre per year, based on an sixty-eight (68) year rotation. This productivity class includes western white pine site index 46-60 and Ponderosa pine site index 81-110. Two hundred twenty-five (225) board feet per acre MAI will be used in the valuation process. ( )

c. Good productivity class is defined as forestland having a mean annual increment, MAI, of three hundred fifty (350) board feet per acre per year, based on an sixty-three (63) year rotation. This productivity class includes western white pine site index 61 and above and Ponderosa pine site index 111 and above. Three hundred fifty (350) board feet per acre MAI will be used in the valuation process. ( )

d. For forest valuation zones 1 and 2, forestland will be stratified into areas of similar productive potential using the habitat typing methodology described in “Forest Habitat Types of Northern Idaho: A Second Approximation,” referenced in Rule 003 of these rules. Within these stratified areas, site index trees will be selected and measured that will identify the site index to be used to place the land in one (1) of the three (3) productivity classes listed above. ( )

e. For forest valuation zones 3 and 4, the criteria for stratification will be generally the same as that used in zones 1 and 2 based on the habitat typing methodology described in “Forest Habitat Types of Central Idaho,” as referenced in Rule 003 of these rules, with the following adjustments made in growth rates for lower moisture levels; ( )

i. For poor productivity class, one hundred twenty-five (125) board feet per acre MAI will be used in the valuation process; ( )

ii. For medium productivity class, two hundred thirteen (213) board feet per acre MAI will be used in the valuation process; and ( )

iii. For good productivity class, three hundred twenty (320) board feet per acre MAI will be used in the valuation process. ( )

**04. Deficient Areas.** Lakes, solid rock bluffs, talus slopes, and continuously flooded swampy areas, larger than five contiguous acres in size which can be identified through remote sensing will be valued at forty percent (40%) of the poor bare land value as defined in Section 63-1706, Idaho Code. These areas are defined as being incapable of growing trees. ( )

**05. Reclassification of Forestlands.** Except as provided in Subsection 962.06 of this rule, no parcel’s

productivity classification can be changed from the classification as of January 1, 2016, until requirements for landowner notification, inspector qualifications, and document retention have been met. ( )

**a.** Landowner notification. Notice of intent to change classification must be provided in writing to the landowner of record or their designee within two (2) weeks of any determination by the county assessor of intent to change classification. Such notice must be provided no later than the first Monday in November for the change to be in effect during the following year. Notice may be delivered in person or by U.S. mail, or, if agreed to by the assessor and the landowner, by electronic mail. Notice of intent to change classification includes: ( )

- i. A statement of intent to change the classification; ( )
- ii. A statement of the present classification and the intended new classification; ( )
- iii. A statement that the intent notice is not an assessment notice and that the assessment notice will be sent by the first Monday in June in the following year; ( )
- iv. A statement that both the ~~taxable~~ assessed value stated on the assessment notice and the classification may be appealed to the county board of equalization as provided in Section 63-501A, Idaho Code; and (3-31-22) ( )
- v. Contact information indicating assessor's office staff who may be contacted and how to do so. ( )

**b.** Inspector qualifications. The inspector is the person assigned by the county assessor to review property characteristics and complete a timberland classification form provided by the Tax Commission. The inspector must be proficient in each of the following: ( )

- i. Navigating forest locations; ( )
- ii. Skilled mapping techniques; ( )
- iii. Establishment of plot locations; ( )
- iv. Plant and tree identification; and ( )
- v. Site tree identification and measurements. ( )

**c.** Inspector proficiency. Inspector proficiency must be established by a minimum of twelve (12) months of experience doing fieldwork, including reviewing the characteristics of timberland and: ( )

- i. Passing a Tax Commission sponsored class on timberland appraisal and inspection; or ( )
- ii. Passing equivalent courses from an accredited college or university; or ( )
- iii. Obtaining a degree in forestry or a related field from an accredited institution. ( )

**d.** Documentation and retention. Documentation related to timberland productivity classification will be retained for no less than ten (10) years following classification determination. Documentation will include, but is not limited to: ( )

- i. Timberland characteristics, on a form provided by the Tax Commission, with sufficient detail to verify the classification, including the calculation of productivity class as set forth in Subsection 962.03 of this rule; ( )
- ii. The location of any field plots and any site trees using map or Global Positioning System (GPS) coordinates; ( )

iii. A map illustrating property boundaries, habitat type based stratifications as provided in Subsection 962.03 of these rules, and plot locations used in the determination of productivity class; ~~and (3-31-22)( )~~

iv. Any imagery used to assess the parcel prior to field review. ( )

**06. Alternate Method to Establish Productivity Classification.** Provided the county assessor and forestland owner agree and the data is deemed by the county to be acceptable and accurate, the data used to establish any parcel's productivity classification may be provided by the forestland owner. In this case, inspector qualifications and proficiency provisions of this rule will not apply. ( )

a. Data to be considered confidential. When productivity data is provided to the county by the forestland owner, it will be deemed confidential financial information and not subject to public disclosure, as provided in Rule 004 of these rules. ( )

b. Inspector certification not required. When the alternate method described in this section is to be used, the county will not be required to have a certified inspector to review property characteristics. ( )

c. Acceptable classification. To be considered acceptable, the classification of the timberland so established must result in market value for assessment purposes as defined in Section 63-1705(3), Idaho Code. ( )

**963. CERTAIN FORESTLANDS TO BE DESIGNATED FOR TAXATION BY OWNER -- LIMITATIONS (RULE 963).**

Section 63-1705, 63-1706, Idaho Code

**01. Designation of Forest Parcels.** A forest landowner may choose to have the total acreage of forestland parcels owned within the state designated under the provisions of either Section 63-1705 or 63-1706, Idaho Code. The forest landowner cannot have parcels in both designations. If the new owner owns no forestland in the state designated under Section 63-1705 or 63-1706, Idaho Code, he may choose the option of forest taxation he desires. Designation will be made on or before December 31st, of the year preceding assessment and will be effective for the following year. Where forest property is held in joint ownership, all co-owners must mutually agree on a property designation under Section 63-1703(a) and (b), Idaho Code. Each co-owner must make a timely designation. Where co-owners are unable to agree on a mutual designation or fail to make a designation, the forestland will be subject to appraisal and assessment as provided in Section 63-1702, Idaho Code. ( )

**02. Change in Use.** Failure to notify the assessor of the change in use when lands have been designated will cause forfeiture of the designation as to the changed acres, and the property will be appraised, assessed and taxed, as provided in Section 63-1702, Idaho Code, from the date of latest designation or renewal. ( )

**03. Certain Lands With No Deferred Taxes.** There are no deferred taxes on lands designated under Section 63-1705, Idaho Code. ( )

**964. YIELD TAX ON APPLICABLE FOREST PRODUCTS (RULE 964).**

**01. Calculation.** The calculation described ~~below~~ in Section 63-1705 (4), Idaho Code, will be used to update the bare forestland value for tax assessment purposes on an annual basis:.

$$BLV_z = ([0.5] \times [(T_z - T_n)/T_n] + 1) \times (BLV_y)$$

<b>STEP 1:</b>	Subtract T <sub>n</sub> from T <sub>z</sub>
<b>STEP 2:</b>	Divide the Answer in Step 1 by T <sub>n</sub>
<b>STEP 3:</b>	Multiply the Answer in Step 2 by 0.5
<b>STEP 4:</b>	Add 1 to the Answer in Step 3
<b>STEP 5:</b>	Multiply BLV <sub>y</sub> by the Answer in Step 4

KEY:	
<b>BLV<sub>z</sub></b>	= Bare forestland value for next year
<b>BLV<sub>y</sub></b>	= Bare forestland value for current year
<b>T<sub>z</sub></b>	= Five year average stumpage value (\$/MBF) for the period ending in the current year
<b>T<sub>n</sub></b>	= Five year average stumpage value (\$/MBF) for the period ending one year ago

(3-31-22)( )

**02. Stumpage Value.** The stumpage value will be the same as that used in the productivity valuation process by zone. ( )

**03. Bare Forestland Value.** After review of the productivity valuation process by March 1 each year, the Tax Commission will review and adjust, as appropriate, the bare forestland values for the current year. ( )

**04. Landowner's Report.** By June 1, of each year the county treasurer will make a written report to include the forest landowner's name, legal description of forest property owned, and yield taxes paid for the current assessment year. This report will be submitted to the county auditor and a record will be maintained for ten (10) years and not disposed of until the eleventh year. ( )

**965. (RESERVED)**

**966. RECAPTURE OF DEFERRED TAXES ON LANDS DESIGNATED UNDER SECTION 63-1706, IDAHO CODE (~~RULE 966~~).**  
Section 63-1703, Idaho Code

**01. Ownership Interest/Deferred Taxes.** Where forestland is held in joint ownership, a transfer of ownership for purposes of recapturing deferred taxes will occur when any one (1) of the legal entities holding an ownership interest in the subject property will convey, transfer, or otherwise dispose of their ownership interest or portion thereof. Any such transfer of ownership will subject the entire parcel to recapture of deferred taxes, unless the new owner timely redesignates their ownership interest under Section 63-1706, Idaho Code. ( )

**02. Deferred Tax Responsibility.** Deferred taxes will be the responsibility of the selling landowner. Deferred taxes will constitute a lien on the land. ( )

**03. Change in Use/Deferred Taxes.** For forestland designated under Section 63-1706, Idaho Code, but subject to recapture of deferred taxes as provided in Section 63-1703, Idaho Code, because of a change in use with no change in ownership, recapture of deferred taxes will be calculated in the following manner: ( )

**a.** The difference between the current bare land value for the correct class of land in the forest value zone in which the parcel lies and the current market value for assessment purposes of the property during the current year; ( )

**b.** Multiplied by the current levy for the tax code area or areas in which the parcel lies; ( )

**c.** Multiplied by the number of years, including the entire current year, the lands have been subject to designation under Section 63-1706, Idaho Code, not to exceed ten (10) years. Additionally, a credit will be allowed for any yield tax paid up to the amount of the deferred taxes. ( )

**04. Transfer of Ownership/Deferred Taxes.** For forestland designated under Section 63-1706, Idaho Code, but subject to recapture of deferred taxes as provided in Section 63-1703, Idaho Code, because of a change in ownership or a removal of the designation, recapture of deferred taxes will be calculated in the following manner: ( )

**a.** The difference between the current bare land value for the correct class of land in the forest value

zone in which the parcel lies and the current productivity value for the correct class of land in the forest value zone in which the parcel lies, for the current year; ( )

b. Multiplied by the current levy for the tax code area or areas in which the parcel lies; ( )

c. Multiplied by the number of years, including the entire current year, which the lands have been subject to designation under Section 63-1706, Idaho Code, not to exceed ten (10) years. Additionally, a credit will be allowed for any yield tax paid up to the amount of the deferred taxes. ( )

**05. Investment Lands.** Investment lands are defined as those in secondary categories 1, 2, 3, 4, 5, and 9, as defined in Rule 510 of these rules. ( )

**967. -- 981. (RESERVED)**

**982. REPORTING NET PROFITS OF MINES ~~(RULE 982)~~.**  
Sections 63-2801, 63-2802, 63-2803, Idaho Code

**01. Amount to be Reported.** The amount of money received from the sale of minerals or mined metals during the calendar year immediately preceding the current tax year will be reported by the owner of the mine or mining claim. If there is no sale, but minerals or mined metals are shipped to a smelter or other facility, an amount of money equivalent to that which would have been received from sale of the shipped minerals or mined metals will be reported. Moneys received from rents, commissaries, discounts on purchases, and investments are not to be included. A separate annual net profit statement will be filed by the owner of mines or mining claims, for each mine or mining claim located in any county in Idaho. The statement filed with any county assessor will not include amounts received pursuant to mines or mining claims located outside the county. The owner will complete the statement on forms prescribed by the Tax Commission. ( )

**02. Additional Allowable Deductions.** In addition to deductions specified in Section 63-2802, Idaho Code, the following expenditures can be subtracted from the amount of money or equivalent to be reported: ( )

a. Expenses for Social Security, worker's compensation, insurance provided by the employer for the benefit of employees at the mine, fire and water protection, first aid and safety devices, mine rescue materials, experimental work reasonably connected with reduction of the ores; ( )

b. Expenses for improvements made during the year immediately preceding the current tax year; ( )

c. Expenses for reclamation or remediation not previously deducted, including payments into a sinking fund mandated by law for reclaiming or remediating the mining site. ( )

**03. Non-deductible Items.** In addition to expenditures specified as non-deductible pursuant to Section 63-2802, Idaho Code, the following expenditures cannot be subtracted from the amount of money to be reported: ( )

a. Federal, state, and local taxes and license fees; ( )

b. Depreciation, depletion, royalties, and donations; ( )

c. Insurance except as listed in Subsection 982.02.a.; ( )

d. Construction repair, and operation of dwellings, community buildings, and recreational facilities; ~~( )~~ ~~(3-31-22)~~( )

and e. Miscellaneous administrative and other expenses not related to labor, machinery or supplies needed for mining, reducing ores, construction of mills and reduction works, transporting ore and extracting metals and minerals from ore. ( )

983. -- 987. (RESERVED)

988. **QUALIFIED PROPERTY FOR EXEMPTION** ~~(RULE 988)~~.  
Sections 63-302, ~~63-313~~, 63-404, 63-3029B, Idaho Code

**01. Definitions.** The following definitions apply for the purposes of the property tax exemption under Section 63-3029B, Idaho Code, and do not decide investment tax credit eligibility for Idaho income tax purposes. ( )

**a.** Year in which the investment is placed in service. ~~“Year in which the investment is placed in service”~~ means the calendar year the property was put to use or placed in a condition or state of readiness and availability for a specifically assigned function in the production of income. ~~(3-31-22)( )~~

**b.** Operator’s Statement. ~~The “operator’s statement”~~ is the annual statement listing all property subject to assessment by the Tax Commission and prepared under Section 63-404, Idaho Code. ~~(3-31-22)( )~~

**c.** Personal Property Declaration. ~~A “personal property declaration”~~ is any form required for reporting personal property ~~or transient personal property to the county assessor under~~ as found in Sections 63-302 ~~or 63-313~~, Idaho Code, ~~respectively~~. ~~(3-31-22)( )~~

**d.** Qualified Investment. ~~“Qualified investment”~~ means property that would have otherwise been taxable for property tax purposes and is eligible or qualified under Section 63-3029B, Idaho Code, provided that property is reported on the personal property declaration or operator’s statement and is designated as exempt from property tax for two (2) years on Form 49E. ~~(3-31-22)( )~~

**e.** Qualified Investment Exemption. ~~The “qualified investment exemption”~~ (QIE) referred to in this rule is the property tax exemption under Section 63-3029B, Idaho Code. ~~(3-31-22)( )~~

**f.** Assessor. ~~The “assessor” is the representative of the county assessor’s office or the Tax Commission who is responsible for the administration of the QIE.~~ ~~(3-31-22)~~

**02. Designation of Property for Which Exemption Is Elected.** The owner will designate the property on which the QIE is elected. The owner will make this designation on Form 49E and attach it to a timely filed personal property declaration or, for operating property, the timely filed operator’s statement. The description of the property on Form 49E must be adequate to identify the property to be granted the exemption. In addition to all other steps required to complete the personal property declaration or operator’s statement, the owner must provide on the personal property declaration or operator’s statement the date the item elected for the QIE was placed in service. ( )

**03. Election for Investments Not Otherwise Required to Be Listed on the Personal Property Declaration.** For investments, like single purpose agricultural or horticultural structures, that are not otherwise required to be listed on the personal property declaration, the owner must list that property to elect the QIE. As with any property designated for the QIE, the owner must attach Form 49E to the personal property declaration. ( )

**04. Continuation of Listing.** For all property designated for QIE, even though that property is exempt for two (2) years, the owner must list that property on the personal property declaration or operator’s statement in the initial year for which the QIE is claimed and the following four (4) consecutive years, unless that property has been sold, otherwise disposed of, or ceases to qualify pursuant to Section 63-3029B, Idaho Code. ( )

**05. Period of QIE.** The QIE will be granted for the two (2) calendar years immediately after the end of the calendar year in which the property acquired as a qualified investment was first placed in service in Idaho. ( )

**06. Election Specificity.** The QIE election provided by Section 63-3029B, Idaho Code, will be specific to each qualified item listed on the personal property declaration or operator’s statement. An item that is a qualified investment, but for which there is no QIE election during the year after the calendar year in which the investment is



placed in service” in Idaho, is not eligible for the QIE. (3-31-22)( )

**07. Notification by Assessor.** ( )

a. Upon Receipt of Form ~~49E or a Listing. Upon receiving Form 49E or any listing provided to comply with Subsection 988.08 or 988.12 of this rule,~~ the assessor will review the application and determine if the taxpayer qualifies for the property tax exemption under Section 63-3029B, Idaho Code. If the assessor determines that the property tax exemption should be granted, the assessor will notify the taxpayer and, ~~if applicable,~~ send a copy of this form or listing to the Tax Commission. (3-31-22)( )

b. Upon Discovery of Changes. Upon discovering that property granted the QIE was sold, otherwise disposed of, or ceased to qualify under Section 63-3029B, Idaho Code, within the five (5) year period beginning with the date the property was placed in service, the assessor will notify the Tax Commission and the taxpayer immediately. The assessor will also provide this notification upon discovery that the owner first claiming the QIE failed to list the item on any personal property declaration or failed to file a personal property declaration in any year during this five (5) year period. This notice will include: ( )

i. ~~Owner.~~ Name of the owner receiving the QIE. (3-31-22)( )

ii. ~~Property description.~~ A description of the property that received the QIE. (3-31-22)( )

iii. ~~New or used.~~ State whether the individual item was purchased new or used. (3-31-22)( )

iv. ~~Date placed in service.~~ The date the owner reported the item was first placed in service in Idaho. (3-31-22)( )

v. ~~First year value of QIE.~~ For each item, the amount of exempt value in the first year the QIE was elected and an identification of the year. (3-31-22)( )

vi. ~~Second year value of QIE.~~ For each item, the amount of exempt value in the second year after the QIE was elected. (3-31-22)( )

vii. ~~Tax code area number.~~ For each item, the number of the tax code area within which that item was located. (3-31-22)( )

c. Denial of the QIE. Upon review of the taxpayer’s application, if the assessor determines that the property tax exemption should not be granted for all or part of the market value of any item or items, then the ~~assessor board of county commissioners~~ will deny the exemption for those items. The assessor will notify the taxpayer electing the QIE and will identify the basis for the denial. The assessor’s notification cancels the election with respect to those items. Upon receiving this notification, the taxpayer is then free to pursue the income tax credit under Section 63-3029B, Idaho Code, for those items denied the QIE by the ~~assessor board of county commissioners.~~ The assessor will send a copy of the notification to the Tax Commission. (3-31-22)( )

**08. Moved Personal Property.** In order to provide unmistakable identification of the property, certain taxpayers must send written notification by the date provided in Section 63-302, ~~63-313,~~ or 63-404, Idaho Code, when moving property that previously received the QIE. This notification: (3-31-22)( )

a. Is required of taxpayers moving locally assessed property between counties in Idaho during the five (5) year period beginning the date that property was placed in service; ( )

i. The taxpayers will send this notification to the assessor in the county that granted the QIE and the assessor in ~~any the~~ Idaho county to which the property has been moved. (3-31-22)( )

ii. The taxpayers must include a listing which describes the property exactly as it was described on the original Form 49E or cross references the property originally listed on Form 49E. ( )

iii. The assessor receiving such notification will forward it to the Tax Commission. ( )

b. Is not required of taxpayers when the property is Tax Commission assessed non-regulated operating property. ( )

~~09. Notification Regarding Transient Personal Property.~~ For transient personal property elected for the QIE, the definition of home county in Section 63-313, Idaho Code, and Rule 313 of these rules, applies. When a home county receives information of an election for QIE and a notice that the exempt property was used in another county in Idaho, the home county must forward information identifying that property to the other county(ies) in accordance with procedures in Section 63-313, Idaho Code. Also, the home county assessor will send a copy of this notice to the Tax Commission. (3-31-22)

~~102. Partial-Year Assessments.~~ Property assessed based on a value prorated for a portion of the year in which the property is first placed in service may still be eligible for the QIE in the subsequent two (2) calendar years, provided the QIE is elected. ( )

~~140. Limitation on Amount of Exemption.~~ ( )

a. New Property. The QIE will be for the full market value for assessment purposes for new property that is a qualifying investment. ( )

b. Used Property. The QIE for used property placed in service during a taxable year for income tax purposes will be limited. For each taxpayer, the QIE will be the lesser of the QIE cost or the current year’s market value in accordance with the following procedure: ( )

i. QIE cost will be determined for each item of used property upon which the QIE is claimed. QIE cost is the lesser of an item’s cost or one hundred fifty thousand dollars (\$150,000); provided, however, that the QIE cost for all elected used property will not exceed one hundred fifty thousand dollars (\$150,000) in a taxable year. (See Example B in Subparagraph 988.11.c.ii., of this rule). In the event the cost of one (1) or more items of used property exceeds one hundred fifty thousand dollars (\$150,000), QIE cost will reflect the reduction necessary to stay within the one hundred fifty thousand dollar (\$150,000) limit (See IDAPA 35.01.01, “Income Tax Administrative Rules,” Rule 719 for information on the selection of items of used property). (3-31-22)( )

ii. For each item purchased used, the QIE will be limited to the lesser of the QIE cost or the current year’s market value. (See Example B in Subparagraph 988.11.c.ii., of this rule). (3-31-22)( )

e. Examples. In the following examples, all of the property is owned by the same taxpayer and is a qualified investment. (3-31-22)

i. Example A. In Example A, 2004 is the first year during which the qualified investment receives the QIE. The taxpayer may decide which of the used items placed in service in 2003 is considered first for the exemption. In this example, computer 1 has been given the exemption first. Since the limitation is based on cost, the remaining used property exemption cannot exceed one hundred thirty thousand dollars (\$130,000) and the QIE cost is determined accordingly. The conveyor belt is a new investment, first eligible for the QIE in 2005. In 2006, the assembly line, computer 1, and computer 2 would be fully taxable at the market value as of January 1, 2006.

Example A										
Property Description (same-taxpayer)	Year Placed in Service	Cost	New or Used	QIE Cost	2004 Market Value	2004 Exempt Value	2004 Taxable Value	2005 Market Value	2005 Exempt Value	2005 Taxable Value
Computer 1	2003	\$20,000	Used	\$20,000	\$12,000	\$12,000	\$0	\$8,000	\$8,000	\$0
Assembly line	2003	\$160,000	Used	\$130,000	\$140,000	\$130,000	\$10,000	\$110,000	\$110,000	\$0
Computer 2	2003	\$50,000	New	N/A	\$40,000	\$40,000	\$0	\$30,000	\$30,000	\$0

Example A										
Property-Description (same-taxpayer)	Year-Placed-in-Service	Cost	New-or-Used	QIE-Cost	2004-Market-Value	2004-Exempt-Value	2004-Taxable-Value	2005-Market-Value	2005-Exempt-Value	2005-Taxable-Value
Conveyor belt	2004	\$200,000	Used	\$150,000	N/A	N/A	N/A	\$200,000	\$150,000	\$50,000

(3-31-22)

ii. Example B. In Example B, the property was purchased at auction for a cost much less than its market value.

Example B										
Property-Description	Year-Placed-in-Service	Cost	New-or-Used	QIE-Cost	2006-Market-Value	2006-Exempt-Value	2006-Taxable-Value	2007-Market-Value	2007-Exempt-Value	2007-Taxable-Value
Construction Equipment	2005	\$20,000	Used	\$20,000	\$80,000	\$20,000	\$60,000	\$70,000	\$20,000	\$50,000

(3-31-22)

d. Used Property Placed in Service by Fiscal Year Taxpayer. If a taxpayer had a fiscal year beginning July 1, 2004, and placed one hundred fifty thousand dollars (\$150,000) of qualifying used property in service on May 15, 2004, and an additional one hundred fifty thousand dollars (\$150,000) of qualifying used property in service on August 1, 2004, the taxpayer would qualify for an exemption of up to three hundred thousand dollars (\$300,000) on this used property in 2005 and 2006. The exempt value in the second year of the exemption could not exceed the lesser of three hundred thousand dollars (\$300,000) or the (depreciated) market value of this used property. ( )

**121. Multi-County Taxpayers.** ( )

a. Except taxpayers electing QIE for property that is Tax Commission assessed operating property, any taxpayers electing the QIE for properties purchased new must indicate on Form 49E the county where each property is located or must complete a separate Form 49E and attach it to the personal property declaration submitted to each county. ( )

b. Except taxpayers electing QIE for property that is Tax Commission assessed operating property, any taxpayers electing the QIE for properties purchased used must attach any Form 49E listing property purchased used to the personal property declaration sent to each county. A Form 49E ~~listing only property purchased used~~ may be provided to comply with this requirement. (3-31-22)( )

c. Any taxpayers electing QIE for property that is Tax Commission assessed non-regulated operating property and purchased new or used must indicate on Form 49E each county where each property is located and attach it to the operator's statement. ( )

d. If multiple Form 49Es are submitted to one (1) or more assessors, a copy of each Form 49E must be attached to the correct year's income tax return. ( )

**132. Special Provisions for Non-regulated Operating Property.** ( )

a. For non-regulated operating property, the market value of the QIE is calculated by multiplying the depreciated original cost of the property times the ratio of the correlated value determined under Subsection 405.08 of these rules to the cost approach value determined under Subsection 405.02 of these rules. ( )

b. The following special provisions apply for the reduction in market value of non-regulated operating property resulting from QIE being elected. ( )

i. Reduction in Idaho value. For non-regulated operating property except situs property, the reduction in market value will be made by subtracting the market value of the QIE from the allocated Idaho value before apportionment to any taxing district or unit. ( )

ii. Reduction in market value of situs property owned by non-regulated operating property companies. For situs property owned by non-regulated operating property companies, the reduction in market value will be made by subtracting the market value of the specific investment in the specific location. ( )

**143. Cross Reference.** For more information relating to procedures and requirements for QIE, refer to Section 63-3029B, Idaho Code, and IDAPA 35.01.01, "Income Tax Administrative Rules," Rule 719. For information relating to recapture of QIE, refer to Rule 989 of these rules. ( )

**989. QUALIFIED INVESTMENT EXEMPTION (QIE) RECAPTURE ~~(RULE 989)~~.**  
Section 63-3029B, Idaho Code

**01. In General.** If a taxpayer has elected the property tax exemption (also known as the QIE) allowed by Section 63-3029B, Idaho Code, for property sold or otherwise disposed of prior to being held five (5) full years from the date placed in service, or property that ceases to qualify or failed to originally qualify pursuant to Section 63-3029B, Idaho Code, the property tax benefit will be subject to recapture. ~~(3-31-22)~~( )

**02. Notification by Taxpayer That Property Ceases to Qualify.** If an item on which a taxpayer claimed the QIE ceases to qualify during the recapture period or was incorrectly claimed by the taxpayer as qualified investment, the taxpayer will provide notification of the amount owing and will remit said amount to the Tax Commission by the due date of that taxpayer's income tax return, ~~irrespective of any income tax extensions of the income tax payment, for the income taxable year in which such event occurs~~. Notification will be accomplished by filing Tax Commission Form 49ER. ~~For each item of property, for each year in which the QIE was granted, the taxpayer will include with such notification the following:~~ ~~(3-31-22)~~( )

- ~~a. A description of the item that ceases to qualify, (3-31-22)~~
- ~~b. The county where the item was located, (3-31-22)~~
- ~~c. The date the item was placed in service, (3-31-22)~~
- ~~d. The date the item was no longer qualified for the QIE, (3-31-22)~~
- ~~e. The amount of value exempted from property tax each year, and (3-31-22)~~
- ~~f. The amount of the property tax benefit recapture. (3-31-22)~~

**03. Notification in Case of Failure by Taxpayer to File Form 49ER.** If any taxpayer who is required to file Form 49ER fails to do so by the date specified in Subsection 989.02 of this rule, the Tax Commission will issue a Notice of Deficiency in the manner provided in Section 63-3045, Idaho Code, to the taxpayer who claimed the QIE. The notice will show the calculation of the recaptured property tax benefit. ( )

**04. Protest of Recapture.** If a taxpayer does not agree with the Notice of Deficiency issued to assert the recapture, the taxpayer may file a protest with the Tax Commission to request a redetermination of the deficiency. The protest will meet the requirements as provided in Section 63-3045, Idaho Code, and IDAPA 35.02.01, "Tax Commission Administrative and Enforcement Rules," Rule 320. ( )

**05. Property Tax Benefit Subject to Recapture.** For any item determined to be subject to the recapture of the property tax benefit under Section 63-3029B(4)(d), Idaho Code, the taxpayer will multiply the exempt value of the property by the applicable average property tax levy determined by the Tax Commission under

Subsection 989.06 or 989.07 of this rule. ~~The result of this calculation will be multiplied by the recapture percentage found in the following table.~~

<b>Table for Reduction of Property Tax Benefit Subject to Recapture</b>	
<b>Time Held/Time Qualifying</b>	<b>Recapture Percentage</b>
Less than one (1) year	100%
Equal to one (1) year but less than two (2) years	80%
Equal to two (2) years but less than three (3) years	60%
Equal to three (3) years but less than four (4) years	40%
Equal to four (4) years but less than five (5) years	20%

~~See Table for Reduction of Property Tax Benefit Subject to Recapture at <https://tax.idaho.gov>.~~ The taxpayer will report this calculation on Form 49ER and will submit this form and remit the amount calculated to the Tax Commission no later than the date indicated in Section 989.02 of this rule. (3-31-22)( )

**06. County Average Property Tax Levy -- Locally Assessed Property Located in One (1) County or Non-apportioned Centrally Assessed Property.** For locally assessed property located in one (1) county or non-apportioned centrally assessed property, the Tax Commission will compute and report the county average property tax levy according to the following procedure. ( )

**a.** Property Tax Budget Summation - General. Except as provided in Paragraph 989.06.b. of this rule, for each year, sum the property tax portion of the annual budget of each taxing district wholly located within the county for which the average levy is to be calculated. This is the approved amount found on the taxing district's L-2 Form in the column entitled "Balance to be levied" as described in Rule 803 of these rules. To this amount, add the prorated portion of the approved "Balance to be levied" for any taxing district located partially within the county for which the average levy is to be calculated. The prorated portion is determined by multiplying the levy for the taxing district by the net taxable value (as defined in Section 63-803(4), Idaho Code) of the portion of the taxing district within the county for which the average levy is to be calculated. (3-31-22)( )

**b.** Property Tax Budget Summation - Special Rules for Counties with Urban Renewal Revenue Allocation Areas. This provision is applicable when taxing districts in the county have funds with levies calculated including all or part of an urban renewal revenue allocation area increment value pursuant to Sections 50-2908(1)(a) through (e), Idaho Code. ( )

**i.** For any such fund, the prorated portion is determined by multiplying the levy of the fund by the net taxable value within the county, including the increment value, used to determine the levy for that fund. (3-31-22)( )

**ii.** For any such fund for which the entire increment value is added to the net taxable value before computing the levy, the sum of the property tax portion of the annual budgets and prorated portions of such budgets must be determined. (3-31-22)( )

**iii.** For any such fund for which part of the increment value is added to the net taxable value before computing the levy, the sum of the property tax portion of the annual budgets and prorated portions of such budgets must be determined. (3-31-22)( )

**iv.** Provided that some taxing district funds within the county are subject to the levy calculation procedures identified in Subparagraphs 989.06.b.ii. and/or iii. of this rule, for all funds other than those identified in this rule, the sum of the property tax portion of the annual budgets and prorated portions of such budgets must be determined. ( )

c. Average Property Tax Levy. ( )

i. For counties without urban renewal revenue allocation areas, the average property tax levy will be computed by dividing the total of the property tax budgets computed in Paragraph 989.06.a. of this rule, by the net taxable value (as defined in Section 63-803(4), Idaho Code) of the county for which the average levy is to be calculated. (3-31-22)( )

ii. For counties with urban renewal revenue allocation areas and funds with levies calculated including all or part of urban renewal revenue allocation area increment value pursuant to Sections 50-2908(1)(a) through (e), Idaho Code, the average property tax levy will be computed by summing the quotients determined by dividing the sums determined in Subparagraphs 989.06.b.ii., iii., and iv., by the net taxable value of the county including the entire increment value, part of the increment value, or none of the increment value, depending on whether all, part, or none of the increment value has been used to determine the levy. (3-31-22)( )

d. Notice to Each County Auditor. The Tax Commission will notify each county auditor of the county's current year's average property tax levy no later than the first Monday in December each year. ( )

**07. Statewide Average Property Tax Levy -- Locally Assessed Property Located in More Than One County or Apportioned Centrally Assessed Property.** For locally assessed property located in more than one (1) county or apportioned centrally assessed property, the Tax Commission will determine the average urban property tax levy of the state and will notify each county auditor of said average no later than the first Monday in December each year. ( )

**08. Noticing Remittance for the Recapture of the Property Tax Benefit.** When the Tax Commission remits to a county the property tax benefit recaptured under Section 63-3029B(4)(f), Idaho Code, it will include with this remittance a notice identifying the following: ( )

a. Owner. Name of the owner receiving the QIE; ( )

b. Property Description. A description of the property that received the QIE; ( )

c. First Year Value of QIE. The amount of exempt value in the first year the QIE was elected and an identification of the year; ( )

d. Second Year Value of QIE. The amount of exempt value in the second year after the QIE was elected; ( )

e. Tax Code Area Number. The number of the tax code area within which that item was located; and ( )

f. Amount Remitted. The amount of money remitted for any item. ( )

**09. No Allocation of Remittances to Urban Renewal Agencies.** Remittances received by a county for property tax benefits recaptured under Section 63-3029B(4)(f), Idaho Code, will not be subject to allocation to urban renewal agencies. ( )

**10. Penalty and Interest.** Penalty and interest will be determined as provided in Sections 63-3045 and 63-3046, Idaho Code. Penalty and interest will be computed from the due date found in Subsection 989.02 of this rule. ( )

**11. Cross Reference.** For more information relating to QIE, refer to Section 63-3029B, Idaho Code, and Rule 988 of these rules. ( )

**990. -- 994. (RESERVED)**

**995. CERTIFICATION OF SALES TAX DISTRIBUTION** ~~(RULE 995)~~.  
Section 63-3638, Idaho Code

~~01.~~ **Most Current Census.** Population will be from the most current population census or estimate of incorporated city populations available from “Table 4, Annual Estimates of the Resident Population for Incorporated Places in Idaho” and estimate of county populations from “Table 1, Annual Estimates of the Resident Population for Counties of Idaho” available from the Bureau of the Census during the quarter of the year for which any distribution of sales tax money is to be made. If the Tax Commission is notified that the Bureau of the Census has revised any city or county population estimates, the revised estimates will be used for the distribution of sales tax money. Population is estimated using the most current census or estimate of city and county populations during the quarter for which sales tax money is distributed. Such estimates can be found at the Bureau of the Census at: <https://www.census.gov/programs-surveys/popest/data/tables.html>. (3-31-22)(    )

~~02.~~ **Market Value for Assessment Purposes.** Market value for assessment purposes means the market value certified to the Tax Commission pursuant to Section 63-510, Idaho Code, and will include homeowner’s exemptions and the value of personal property exempt pursuant to Section 63-602KK(2), Idaho Code, as determined for tax year 2013, and the amount of real and personal property value which exceeds the assessed value shown on the base assessment roll for a revenue allocation area as defined in Section 50-2903(15), Idaho Code, for the calendar year immediately preceding the current fiscal year. (3-31-22)

~~03.~~ **Current Fiscal Year.** ~~For the purposes of this section, current fiscal year means the current fiscal year of the state of Idaho.~~ For distribution purposes, the current fiscal year will begin with the distribution made in October, following collection of sales taxes in July, August, and September. (3-31-22)(    )

~~04.~~ **Incorporated City.** To qualify for sales tax distribution, an incorporated city will, for the current fiscal year, have is one (1) with a duly elected mayor and city council. (3-31-22)(    )

~~05.~~ **Valuation Estimates.** Valuation estimates for distribution of revenue sharing monies will be updated at least annually. Updated estimates will be used beginning with the October distribution. (3-31-22)

~~06.~~ **Determination Date and Eligibility.** ( )

a. ~~General eligibility.~~ Except as provided in Paragraph 995.064.b. of this rule, the eligibility of each city for revenue sharing monies pursuant to Section 63-3638(10)(a), Idaho Code, ~~will be is~~ determined as of July 1 of the current year. Cities formed after January 1, 2001, will also be entitled to a share of the money pursuant to the provisions of not receiving distributions in fiscal year 2020 are ineligible to receive monies under Section 63-3638(10)(e), Idaho Code. (3-31-22)(    )

b. ~~Ineligibility as a result of non-compliance.~~ Otherwise eligible taxing districts that are found to be out of compliance with the requirements of Section 67-450B, Idaho Code, or Section 67-450E, Idaho Code, will be ineligible for distributions provided under Section 63-3638(10), Idaho Code, commencing with the next scheduled quarterly distribution following the Tax Commission’s receipt of notification of non-compliance and continuing until the distribution following the Tax Commission’s receipt of notification of compliance. At that time the Tax Commission will add to the current quarterly distribution any amount previously withheld under these provisions. Taxing districts that are out of compliance with the requirements of Section 67-1076, Idaho Code, are ineligible for quarterly distributions provided under Section 63-3638(10), Idaho Code. Once the Tax Commission is notified by the State Controller’s Office that the district is complying, quarterly distributions resume, including any amounts previously withheld under these provisions. (3-31-22)(    )

~~07.~~ **Quarterly Certification.** Except if shares are required to be withheld pursuant to Sections 67-450B, ~~1076 and 67-450E~~, Idaho Code, the Tax Commission will certify quarterly to each county clerk the ~~base and excess shares of the~~ distributions required pursuant to Section 63-3638(10)(c) ~~and 63-3638(10)(d)~~, Idaho Code, and the distributions to cities and counties required pursuant to Section 63-3638(10)(a) and ~~63-3638(10)(b)~~, Idaho Code. ~~Each county clerk will calculate and certify the distribution of these monies to the eligible taxing districts based on the directives of the Tax Commission.~~ (3-31-22)(    )

a. ~~City and County Base Shares.~~ For cities and counties, the initial base share will be the amount of money to which they were entitled for the fourth calendar quarter of 1999, based on the provisions of Section 63-3638(e), Idaho Code, as such section existed prior to July 1, 2000. In addition, the initial base share will be adjusted

~~proportionally to reflect increases that become available or decreases that occur, unless increases exceed five percent (5%) of the initial base share. (3-31-22)~~

~~**b.** Special Purpose Taxing District Base Shares. For special purpose taxing districts the initial base share will be the amount of money to which they were entitled for the fourth calendar quarter of 1999, based on the provisions of Section 63-3638(c), Idaho Code, as such section existed prior to July 1, 2000. Special purpose taxing district initial base shares will be proportionally reduced to reflect decreases in the amount of sales tax available to be distributed. (3-31-22)~~

~~**c.** Excess Shares. Excess shares will be any amounts above the base share that any city, county or special purpose taxing district is entitled to receive pursuant to Section 63-3638(10)(c) or 63-3638(10)(d), Idaho Code. These amounts will not be subject to redistribution provisions of Section 40-801, Idaho Code. (3-31-22)~~

~~**da.** Shares Pursuant to Section 63-3638(10)(a) or 63-3638(10)(b), Idaho Code. Shares to be distributed pursuant to Section 63-3638(10)(a) or 63-3638(10)(b), Idaho Code, will be termed “revenue sharing.” Such shares will be subject to quarterly distribution and for this purpose, the one million three hundred twenty thousand dollars (\$1,320,000) distribution pursuant to Section 63-3638(10)(b)(i), Idaho Code, will be considered an annual amount and will be divided into four (4) equal shares. Shares distributed quarterly pursuant to Section 63-3638(10)(a), (b), or (c), Idaho Code, are termed revenue sharing. The distribution found in Section 63-3638(10)(b)(i)(1), Idaho Code, in the amount of one million three hundred twenty thousand dollars (\$1,320,000), is considered an annual amount divided into four (4) equal shares. (3-31-22)( )~~

~~**eb.** Amounts authorized to be paid to counties for redistribution to taxing districts will be withheld if necessary to comply with the requirements of Sections 67-450B and 67-450E, Idaho Code. The Tax Commission will identify the district for which amounts are being withheld and the amount being withheld. The county should notify the district accordingly and notify them that they will receive the withheld funds following a determination by the legislative services office that they are in compliance with the provisions of these statutes. Withheld funds will be distributed by the Tax Commission no later than the next quarterly sales tax distribution due date following receipt by the Tax Commission of a determination by the Legislative Services Office that a previously non-compliant taxing district is in compliance. The Tax Commission will withhold authorized payments to cities, counties, or special purpose taxing districts to comply with the requirements of Section 67-1076, Idaho Code. The Tax Commission will publish a report on its website to notify the county of the district, which is failing to comply, and the amount being withheld. Once the Tax Commission is notified by the state controller that a previously non-compliant taxing district has achieved compliance, the Tax Commission will distribute withheld funds with the next quarterly sales tax distribution. (3-31-22)( )~~

~~**fc.** Amounts authorized to be paid to an urban renewal agency pursuant to Section 63-3638(13), Idaho Code, will be withheld if the agency has not complied with the reporting requirements of Section 50-2913, Idaho Code. The Tax Commission will notify the urban renewal agency of the amount being withheld and notify the urban renewal agency that the withheld funds will be distributed by the Tax Commission no later than the next quarterly sales tax distribution due date after the urban renewal agency has complied with the reporting requirements of Section 50-2913, Idaho Code. Urban renewal agencies failing to comply with the reporting requirements found in Section 50-2913, Idaho Code, will have authorized payments identified in Section 63-3638(13), Idaho Code, withheld. Once the urban renewal agency complies with the necessary reporting requirements, the Tax Commission will distribute the withheld funds with the next quarterly sales tax distribution. (3-31-22)( )~~

~~**08.** **Notification of Value.** The county auditor will notify the Tax Commission of the value of each taxing district and unit as specified in Section 63-510, Idaho Code. (3-31-22)~~

~~**09.** **Corrections.** ( )~~

~~**a.** When distributions have been made erroneously, corrections will be made to the following quarterly distribution(s) so as to provide the quickest practicable restitution to affected taxing districts. Corrections will be made to reconcile erroneous distributions made for the current fiscal year. Errors made in distributions for the last quarter of the current fiscal year will be corrected as soon as practicable in distributions made for the following fiscal year. Corrections of distribution errors are made in the following quarterly distribution(s) of the current fiscal year. Corrections occurring in the final quarter of the fiscal year are made as soon as possible in the following fiscal~~



~~year.~~ (3-31-22)( )

**b.** The Tax Commission will notify affected county clerks when the Tax Commission becomes aware of an error in ~~the~~ distributions ~~of the base or excess shares.~~ (3-31-22)( )

~~**e.** The Tax Commission will notify affected cities or county clerks when the Tax Commission becomes aware of an error in the distribution of city or county revenue sharing monies.~~ (3-31-22)

**996. -- 999. (RESERVED)**

**IDAPA 50 – COMMISSION OF PARDONS AND PAROLE**  
**50.01.01 – RULES OF THE COMMISSION OF PARDONS AND PAROLE**  
**DOCKET NO. 50-0101-2301**  
**NOTICE OF INTENT TO PROMULGATE RULES –**  
**ZERO-BASED REGULATION (ZBR) NEGOTIATED RULEMAKING**

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section(s) 20-1004 and 20-1005, Idaho Code.

**MEETING SCHEDULE:** Two public meetings on the negotiated rulemaking will be held as follows:

<b>IN PERSON AND VIRTUAL TELECONFERENCES</b>
<b>Wednesday, September 13, 2023</b> <b>9:00 a.m. to 10:00 a.m. (MT)</b>
<b>In-person participation is available at:</b> <b>Commission of Pardons and Parole</b> <b>3056 Elder St. Boise, ID 83705</b>  <b>Web meeting link:</b> <a href="https://idahogov.webex.com/idahogov/j.php?MTID=mcf64d9197a52b9614179b7324baeb4f">https://idahogov.webex.com/idahogov/j.php?MTID=mcf64d9197a52b9614179b7324baeb4f</a> <b>Meeting Number: 2630 990 1596</b> <b>Password: 6Y6mu3VQeFs</b>
<b>Wednesday, September 20, 2023</b> <b>9:00 a.m. to 10:00 a.m. (MT)</b>
<b>In-person participation is available at:</b> <b>Commission of Pardons and Parole</b> <b>3056 Elder St. Boise, ID 83705</b>  <b>Web meeting link:</b> <a href="https://idahogov.webex.com/idahogov/j.php?MTID=md61da5545f02a679f4d15617c945ad05">https://idahogov.webex.com/idahogov/j.php?MTID=md61da5545f02a679f4d15617c945ad05</a> <b>Meeting ID: 2634 011 4554</b> <b>Passcode: MefPq6Mdr26</b>

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

**METHOD OF PARTICIPATION:** Persons wishing to participate in the negotiated rulemaking must do the following:

Provide comments in writing for the record to the undersigned, or provide oral presentation during the meeting time.

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

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

In accordance with the [Zero-Based Regulation E. O. 2020-01](#) and the Division's [5-year review schedule](#), the goal of this rulemaking is to make changes and modifications that remove obsolete language, eliminate unnecessary restrictions, and provide overall clarity.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text (if available), contact Mary Schoeler 208-334-2520. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Commission of Pardons and Parole web site at the following web address: [www.pardons.idaho.gov](http://www.pardons.idaho.gov).

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 20, 2023.

DATED this 10th day of August, 2023.

Ashley Dowell, Executive Director  
3056 Elder Street  
Boise, ID 83705  
(208) 334-2520

# IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

## 58.01.01 – RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-2301

### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. The action is authorized by Sections 39-105 and 39-107, Idaho Code. This rulemaking updates federal regulations incorporated by reference as mandated by the U.S. Environmental Protection Agency (EPA) for approval of Idaho's Title V Operating Permit Program pursuant to 40 CFR Part 70 and fulfilling the requirements of Idaho's delegation agreement with EPA under Section 112(l) of the Clean Air Act. It also updates citations to other federal regulations necessary to retain state primacy of Clean Air Act programs.

**PUBLIC HEARING SCHEDULE:** Pursuant to Section 67-5222(2), Idaho Code, a public hearing has been scheduled and will be held as follows:

**Tuesday, October 10, 2023, at 2:30 p.m. MT**

**ATTEND IN PERSON OR VIA MICROSOFT TEAMS**

**DEQ State Office  
Conference Rooms A & B  
1410 N. Hilton  
Boise, ID 83706**

**The Teams meeting link is available at:  
<https://www.deq.idaho.gov/docket-no-58-0101-2301/>**

The meeting location will be accessible to persons with disabilities, and language translators will be made available upon request. Requests must be made no later than five (5) business days prior to the meeting date. For arrangements, contact the undersigned.

**DESCRIPTIVE SUMMARY:** The purpose of this rulemaking is to ensure that the state rules remain consistent with federal regulations. The Rules for the Control of Air Pollution in Idaho, IDAPA 58.01.01, are updated annually to maintain consistency with federal regulations implementing the Clean Air Act. This proposed rule updates federal regulations incorporated by reference with the July 1, 2023 Code of Federal Regulations (CFR) effective date. The July 1, 2023 CFR is a codification of federal regulations published in the Federal Register as of July 1, 2023. Section 107, Incorporations by Reference, has been streamlined per suggestions made by the Division of Financial Management, Office of the Governor (DFM), for consistency with [Zero-Based Executive Order 2020-01](#).

This rulemaking also adds the definition of “excess emissions” to Section 130 of the rule. During negotiated rulemaking for Docket No. 58-0101-2101, this definition, along with other definitions relating to excess emission events, was struck from Section 006 with the intention of moving them to Section 130. While the other definitions were moved to Section 130, definition of “excess emissions” was inadvertently overlooked. DEQ is now adding it to Section 130 as originally intended. For increased manageability and ease of use, the terms and definitions in Section 130 have been moved to a list and alphabetized.

Members of the regulated community who may be subject to Idaho's air quality rules, special interest groups, public officials, and members of the public who have an interest in the regulation of air emissions from sources in Idaho may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed. The rule is expected to be final and effective

upon adjournment of the 2024 legislative session if adopted by the Board and approved by the Idaho Legislature. DEQ will submit the final rule to EPA.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary:

Adoption of federal regulations is necessary for EPA approval of Idaho's Title V Operating Permit Program and state primacy of Clean Air Act programs. Incorporation by reference allows DEQ to keep its rules up to date with federal regulation changes and simplifies compliance for the regulated community. Information for obtaining a copy of the federal regulations is included in the rule.

In compliance with Idaho Code 67-5223(4), DEQ prepared a brief synopsis detailing the substantive differences between the previously incorporated material and the latest revised edition or version of the incorporated material being proposed for incorporation by reference. The Overview of Incorporations by Reference can be obtained at <https://www.deq.idaho.gov/docket-no-58-0101-2301/>.

**NEGOTIATED RULEMAKING:** Negotiated rulemaking was not conducted. DEQ determined that negotiated rulemaking is not feasible due to the simple nature of this rulemaking and because DEQ has no discretion with respect to adopting federal regulations that are necessary for EPA approval of Idaho's Title V Operating Permit Program and state primacy of Clean Air Act programs. Whenever possible, DEQ incorporates federal regulations by reference to ensure that the state rules are consistent with federal regulations.

**IDAHO CODE SECTION 39-107D STATEMENT:** This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

**FISCAL IMPACT STATEMENT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: Not applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this rulemaking, contact Tiffany Floyd at [tiffany.floyd@deq.idaho.gov](mailto:tiffany.floyd@deq.idaho.gov) or (208) 373-0552.

**SUBMISSION OF WRITTEN COMMENTS:** Anyone may submit written comments regarding this proposed rule. The Department will consider all written comments received on or before October 10, 2023. Submit comments to:

Tiffany Floyd  
Department of Environmental Quality  
1410 N. Hilton Street  
Boise, Idaho 83706  
[Tiffany.floyd@deq.idaho.gov](mailto:Tiffany.floyd@deq.idaho.gov)

Dated this 6th day of September, 2023.

Caroline Moores  
Operations Senior Analyst  
Department of Environmental Quality  
1410 N. Hilton Street  
Boise, Idaho 83706  
Phone: (208)373-0149  
[caroline.moores@deq.idaho.gov](mailto:caroline.moores@deq.idaho.gov)

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0101-2301  
(Only Those Sections With Amendments Are Shown.)

107. INCORPORATIONS BY REFERENCE.

~~01. General. Unless expressly provided otherwise, any reference in these rules to any document identified in Subsection 107.03 constitutes the full incorporation into these rules of that document for the purposes of the reference, including any notes and appendices therein. The term “documents” includes codes, standards or rules which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association. (3-28-23)~~

~~02. Availability of Referenced Material. Copies of the documents incorporated by reference into these rules are available at the following locations: (3-28-23)~~

~~a. All federal publications: U.S. Government Printing Office at <http://www.ecfr.gov/cgi-bin/ECFR>; and; (3-28-23)~~

~~b. Statutes of the state of Idaho: <http://legislature.idaho.gov/idstat/TOC/IDStatutesTOC.htm>; and (3-28-23)~~

~~e. All documents herein incorporated by reference: (3-28-23)~~

~~i. Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706 1255 at [www.deq.idaho.gov](http://www.deq.idaho.gov). (3-28-23)~~

~~ii. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, Idaho 83720 0051 at [www.isll.idaho.gov](http://www.isll.idaho.gov). (3-28-23)~~

~~03. Documents Incorporated by Reference. The following documents are incorporated by reference into these rules: (3-28-23)~~

~~a01. Requirements for Preparation, Adoption, and Submittal of Implementation Plans. 40 CFR Part 51 revised as of July 1, 2022<sup>3</sup>. All sections included in 40 CFR Part 51, Subpart P, Protection of Visibility, are excluded from incorporation except 51.301, 51.304(a), 51.307, and 51.308 are incorporated by reference into these rules. (3-28-23)(    )~~

~~b02. National Primary and Secondary Ambient Air Quality Standards. 40 CFR Part 50, revised as of July 1, 2022<sup>3</sup>. (3-28-23)(    )~~

~~e03. Approval and Promulgation of Implementation Plans. 40 CFR Part 52, Subparts A and N and Appendices D and E, revised as of July 1, 2022<sup>3</sup>. (3-28-23)(    )~~

~~d04. Ambient Air Monitoring Reference and Equivalent Methods. 40 CFR Part 53, revised as of July 1, 2022<sup>3</sup>. (3-28-23)(    )~~

~~e05. Ambient Air Quality Surveillance. 40 CFR Part 58, revised as of July 1, 2022<sup>3</sup>. (3-28-23)(    )~~

~~f06. Standards of Performance for New Stationary Sources. 40 CFR Part 60, revised as of July 1, 2022<sup>3</sup>. (3-28-23)(    )~~

~~g07. National Emission Standards for Hazardous Air Pollutants. 40 CFR Part 61, revised as of July 1, 2022<sup>3</sup>. (3-28-23)(    )~~

~~h08. Federal Plan Requirements for Hospital/Medical/Infectious Waste Incinerators Constructed~~

on or Before December 1, 2008; 40 CFR Part 62, Subpart HHH, revised as of July 1, 2022; (3-28-23)( )

**i09.** Federal Plan Requirements for Municipal Solid Waste Landfills That Commenced Construction On or Before July 17, 2014 and Have Not Been Modified or Reconstructed Since July 17, 2014; 40 CFR Part 62, Subpart OOO, revised as of July 1, 2022; (3-28-23)( )

**j10.** National Emission Standards for Hazardous Air Pollutants for Source Categories; 40 CFR Part 63, revised as of July 1, 2022; (3-28-23)( )

**k11.** Compliance Assurance Monitoring; 40 CFR Part 64, revised as of July 1, 2022; (3-28-23)( )

**l12.** State Operating Permit Programs; 40 CFR Part 70, revised as of July 1, 2022; (3-28-23)( )

**m13.** Permits; 40 CFR Part 72, revised as of July 1, 2022; (3-28-23)( )

**n14.** Sulfur Dioxide Allowance System; 40 CFR Part 73, revised as of July 1, 2022; (3-28-23)( )

**o15.** Protection of Stratospheric Ozone; 40 CFR Part 82, revised as of July 1, 2022; (3-28-23)( )

**p16.** Clean Air Act; 42 U.S.C. Sections 7401 through 7671g (1997). (3-28-23)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**130. STARTUP, SHUTDOWN, SCHEDULED MAINTENANCE, SAFETY MEASURES, UPSET AND BREAKDOWN.**

**01. Procedures.** Sections 130 through 136 establish procedures to be implemented in all excess emissions events and establish criteria to be applied by the Department in determining whether to take enforcement action to impose penalties for an excess emissions event where the excess emissions are caused by startup, shutdown, scheduled maintenance, upset, or breakdown of any emissions unit or that occur as a direct result of the implementation of any safety measure. ~~Startup is defined as the normal and customary time period required to bring air pollution control equipment or an emissions unit, including process equipment, from a nonoperational status into normal operation. Shutdown is defined as the normal and customary time period required to cease operations of air pollution control equipment or an emissions unit beginning with the initiation of procedures to terminate normal operation and continuing until the termination is completed. Upset is defined as an unplanned disruption in the normal operations of any equipment or emissions unit that may cause excess emissions. Breakdown is defined as an unplanned failure of any equipment or emissions unit that may cause excess emissions. Scheduled maintenance is defined as planned upkeep, repair activities and preventative maintenance on any air pollution control equipment or emissions unit, including process equipment, and including shutdown and startup of such equipment. Safety measure is defined as any shutdown (and related startup) or bypass of equipment or processes undertaken to prevent imminent injury or death or severe damage to equipment or property which may cause excess emissions.~~ (3-28-23)( )

**02. Definitions.** ( )

**a.** Breakdown. An unplanned failure of any equipment or emissions unit that may cause excess emissions. ( )

**b.** Excess Emissions. Emissions that exceed an applicable emissions standard established for any facility, source or emissions unit by statute, regulation, rule, permit, or order. ( )

**c.** Safety Measure. Any shutdown (and related startup) or bypass of equipment or processes undertaken to prevent imminent injury or death or severe damage to equipment or property which may cause excess emissions. ( )

**d.** Scheduled Maintenance. Planned upkeep, repair activities and preventative maintenance on any air pollution control equipment or emissions unit, including process equipment, and including shutdown and startup of such equipment. ( )

**e.** Shutdown. The normal and customary time period required to cease operations of air pollution control equipment or an emissions unit beginning with the initiation of procedures to terminate normal operation and continuing until the termination is completed. ( )

**f.** Startup. The normal and customary time period required to bring air pollution control equipment or an emissions unit, including process equipment, from a nonoperational status into normal operation. ( )

**g.** Upset. An unplanned disruption in the normal operations of any equipment or emissions unit that may cause excess emissions. ( )



## **IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY**

### **58.01.03 – INDIVIDUAL/SUBSURFACE SEWAGE DISPOSAL RULES AND RULES FOR CLEANING OF SEPTIC TANKS**

**DOCKET NO. 58-0103-2301**

#### **NOTICE OF INTENT TO PROMULGATE RULES – ZERO-BASED REGULATION (ZBR) NEGOTIATED RULEMAKING**

**AUTHORITY:** In compliance with Section 67-5220, Idaho Code, notice is hereby given that this agency intends to promulgate a rule and desires public participation before publishing a proposed rule. This rulemaking action is authorized by Chapters 1 and 36, Title 39, Idaho Code.

**METHOD OF PARTICIPATION:** Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meeting. For those who cannot participate by attending the meeting, information for submission of written comments is provided at the end of this notice.

**MEETING SCHEDULE:** A negotiated rulemaking meeting has been scheduled. Any additional meeting dates will be posted at: <https://www.deq.idaho.gov/individual-subsurface-sewage-disposal-docket-no-58-0103-2301/>.

**Friday, September 29, 2023, at 9:30 a.m. MT**

#### **ATTEND IN PERSON OR VIA MICROSOFT TEAMS**

**DEQ State Office  
Conference Rooms A & B  
1410 N. Hilton  
Boise, ID 83706**

**The Teams meeting link is available at:  
<https://www.deq.idaho.gov/individual-subsurface-sewage-disposal-docket-no-58-0103-2301/>**

The meeting location will be accessible to persons with disabilities, and language translators will be made available upon request. Requests must be made no later than five (5) business days prior to the meeting date. For arrangements contact the undersigned.

**DESCRIPTIVE SUMMARY:** DEQ initiated this rulemaking in compliance with [Executive Order No. 2020-01, Zero-Based Regulation \(EO 2020-01\)](#), issued by Governor Little on January 16, 2020. Pursuant to EO 2020-01, each rule chapter effective on June 30, 2020, shall be reviewed by the agency that promulgated the rule. The review will be conducted according to a schedule established by the Division of Financial Management, Office of the Governor (DFM), posted at [https://adminrules.idaho.gov/forms\\_menu.html](https://adminrules.idaho.gov/forms_menu.html). This is one of the DEQ rule chapters up for review in 2024. The goal of the rulemaking is to perform a critical and comprehensive review of the entire chapter in an attempt to reduce overall regulatory burden, streamline various provisions, increase clarity and ease of use, and maintain state program approval.

Major proposed changes to the rule include removing and replacing definitions, revising and simplifying septic tank approvals, removing specific requirements for large septic tanks, reducing setbacks to surface water, combining the cleaning of septic tanks sections into one, simplifying the permitting process for service providers, and identifying certain provisions of the Technical Guidance Manual for Individual and Subsurface Sewage Disposal Systems to be moved into the rule.

**PRELIMINARY DRAFT RULE:** The preliminary draft rule is available at: <https://www.deq.idaho.gov/individual-subsurface-sewage-disposal-docket-no-58-0103-2301/>. DEQ will facilitate negotiation of this rule in conjunction with a committee made up of stakeholders having an interest in the development of the rule. Citizens of the state of Idaho, environmental groups, real estate developers, homeowner's associations, wastewater product manufacturers, septic system installers, and local government planning and zoning departments may be interested in participating in this rulemaking. Upon conclusion of negotiations, DEQ intends to publish a proposed rule for public comment.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning this rulemaking, contact Peter Adams at [peter.adams@deq.idaho.gov](mailto:peter.adams@deq.idaho.gov) or (208)954-1438.

**SUBMISSION OF WRITTEN COMMENTS:** Information regarding public comment opportunities provided throughout the rulemaking process will be available at: <https://www.deq.idaho.gov/individual-subsurface-sewage-disposal-docket-no-58-0103-2301/>.

Dated this 6th day of September, 2023.

Caroline Moores  
Operations Senior Analyst  
Department of Environmental Quality  
1410 N. Hilton Street  
Boise, Idaho 83706  
Phone: (208)373-0149  
[caroline.moores@deq.idaho.gov](mailto:caroline.moores@deq.idaho.gov)

## IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

### 58.01.08 – IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

#### DOCKET NO. 58-0108-2301 (ZBR CHAPTER REWRITE, FEE RULE)

#### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. This action is authorized by Chapter 1, Title 39, Idaho Code.

**PUBLIC HEARING SCHEDULE:** No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before September 22, 2023. If no such written request is received, a public hearing will not be held. Two public meetings were held during the negotiated rulemaking process.

**DESCRIPTIVE SUMMARY:** DEQ initiated this rulemaking in compliance with [Executive Order No. 2020-01, Zero-Based Regulation \(EO 2020-01\)](#), issued by Governor Little on January 16, 2020. Pursuant to EO 2020-01, each rule chapter effective on June 30, 2020, shall be reviewed by the agency that promulgated the rule. The review will be conducted according to a schedule established by the Division of Financial Management, Office of the Governor (DFM), posted at [https://adminrules.idaho.gov/forms\\_menu.html](https://adminrules.idaho.gov/forms_menu.html). This is one of the DEQ rule chapters up for review in 2023. The goal of the rulemaking is to perform a critical and comprehensive review of the entire chapter in an attempt to reduce overall regulatory burden, streamline various provisions, increase clarity and ease of use, and maintain state program approval.

This rulemaking also updates federal regulations incorporated by reference with the July 1, 2023 Code of Federal Regulations (CFR) effective date. The July 1, 2023 CFR is a codification of federal regulations published in the Federal Register as of July 1, 2023. Adoption of federal regulations is necessary to maintain program primacy. Incorporation by reference allows DEQ to keep its rules up to date with federal regulations and simplifies compliance for the regulated community.

Citizens of the state of Idaho, environmental groups, DEQ's Drinking Water Advisory Committee, the Idaho Water Utility Council, the Association of Civil Engineers, the Idaho Chapters of the American Water Works Association, and owners and operators of drinking water treatment facilities may be interested in commenting on this proposed rule. The rule is expected to be final and effective upon the conclusion of the 2024 legislative session if adopted by the Board and approved by the Idaho Legislature.

**FEE SUMMARY:** This rulemaking does not impose or increase a fee beyond what was previously submitted to and reviewed by the Idaho Legislature in prior rules. Fees included in this rule chapter are authorized by Section 39-119, Idaho Code.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: Not applicable.

**NEGOTIATED RULEMAKING:** On March 1, 2023, the notice of negotiated rulemaking was published in the Idaho Administrative Bulletin and on March 30, 2023, a preliminary draft rule was posted on DEQ's website. Meetings were held on April 11 and May 9, 2023. Stakeholders and members of the public participated by receiving email notifications, attending the meetings, reviewing DEQ's presentations, and submitting comments. Key information was posted on DEQ's website and distributed to persons who participated in the negotiated rulemaking.

All comments received during the negotiated rulemaking process were considered by DEQ when making decisions regarding the development of the rule. At the conclusion of the negotiated rulemaking process, DEQ submitted the draft rule to the Division of Financial Management for review. DEQ formatted the draft for publication as a proposed rule and is now seeking public comment. The negotiated rulemaking record, which includes the negotiated rule drafts, documents distributed during the negotiated rulemaking process, and the negotiated rulemaking summary, is available at <https://www.deq.idaho.gov/drinking-water-docket-no-58-0108-2301/>.

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

Adoption of federal regulations is necessary to maintain program primacy, allows DEQ to keep its rules up to date with federal regulation changes, and simplifies compliance for the regulated community. Information for obtaining a copy of the federal regulations is included in the rule.

In compliance with Idaho Code 67-5223(4), DEQ prepared a brief synopsis detailing the substantive differences between the previously incorporated material and the latest revised edition or version of the incorporated material being proposed for incorporation by reference. The Overview of Incorporations by Reference is available at <https://www.deq.idaho.gov/drinking-water-docket-no-58-0108-2301/>.

**IDAHO CODE SECTION 39-107D STATEMENT:** Section 39-107D, Idaho Code applies to a rule which “proposes to regulate an activity not regulated by the federal government.” The engineering standards for design, construction, and operation of public drinking water systems regulate activities that are not regulated by the federal government. These standards were originally promulgated to fulfill the requirements of Section 39-118, Idaho Code, and pre-date the Safe Drinking Water Act. These proposed rules address the review and approval of plans and specifications for public drinking water systems and the standard by which the agency does the review and approval. This is not an activity regulated by the federal government. This is an activity, however, that DEQ has regulated for years pursuant to Section 39-118, Idaho Code, and 58.01.08, Idaho Rules for Public Drinking Water Systems. To the extent DEQ is not proposing any new regulation of activities, Section 39-107D, Idaho Code, is most likely not applicable.

Assuming Section 39-107D, Idaho Code, is applicable, 39-107D(3) provides that any rule subject to 39-107D that proposes a standard necessary to protect human health and the environment must also include in the rulemaking record and in the notice of rulemaking additional information. This additional information includes any estimates of risk accomplished, identification of populations or receptors addressed by any estimates, and other information related to an estimation of risk. The proposed rules include facility standards which are intended to protect human health and the environment. The standards, however, are for the design and construction of public drinking water facilities. For example, the rules require that water mains be constructed using materials that meet national standards for potable water. The rules are not based upon any express estimate or analysis of risk to public health or the environment. The facility standards are based upon guidelines set forth in documents, such as the “Recommended Standards for Water Works” and the “American Water Works Association Standards,” that are generally accepted and used throughout the United States by engineers and state regulators, and which are all referenced in the rules.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning this proposed rulemaking, contact Tyler Fortunati at [tyler.fortunati@deq.idaho.gov](mailto:tyler.fortunati@deq.idaho.gov) or (208) 373-0410.

**SUBMISSION OF WRITTEN COMMENTS:** Anyone may submit written comments regarding this proposed rule. The Department will consider all written comments received on or before October 6, 2023. Submit written comments to:

Tyler Fortunati  
Department of Environmental Quality  
1410 N. Hilton, Boise, ID 83706  
[Tyler.fortunati@deq.idaho.gov](mailto:Tyler.fortunati@deq.idaho.gov)

Dated this 6th day of September, 2023.

Caroline Moores  
Operations Senior Analyst  
Department of Environmental Quality  
1410 N. Hilton Street  
Boise, Idaho 83706  
Phone: (208)373-0149  
[caroline.moores@deq.idaho.gov](mailto:caroline.moores@deq.idaho.gov)

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 58-0108-2301  
(ZBR Chapter Rewrite)

58.01.08 – IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

000. LEGAL AUTHORITY.

~~The Idaho Legislature has given the Idaho Board of Environmental Quality the authority to promulgate rules governing quality and safety of drinking water, pursuant to Title 37, Chapter 21 and Title 39, Chapter 1, Title 39, Idaho Code.~~ (3-24-22)( )

001. TITLE AND SCOPE.

~~01. Title. These rules are titled IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems."~~ (3-24-22)

~~02. Scope. 40 CFR 141.3 is incorporated by reference.~~ The purpose of these rules is to control and regulate the design, construction, operation, maintenance, and quality control of public drinking water systems to provide a degree of assurance that such systems are protected from contamination and maintained free from contaminants which may injure the health of the consumer. (3-24-22)( )

002. INCORPORATION BY REFERENCE AND AVAILABILITY OF REFERENCED MATERIALS.

~~01. Incorporation by Reference. The following documents are incorporated by reference into these rules:~~ (3-24-22)( )

~~a. 40 CFR Part 141, revised as of July 1, 2015 2023 (excluding annual monitoring provisions in 40 CFR 141.854(a)(4),(d),(e),(f) and (h), and the Aircraft Drinking Water Rule in Subsection Subpart X); and 40 CFR Part 143, revised as of July 1, 2011 2023. Any reference in these rules to requirements, procedures, or specific forms contained in any section or subsection of 40 CFR Parts 141 and 143 shall constitute the full adoption by reference of that section or subsection, including any notes and appendices therein, unless expressly provided otherwise in these rules.~~ (3-24-22)( )

~~b. American Water Works Association (AWWA) Standards, effective December 2009 2022, available for a fee from the AWWA, 6666 West Quinney Avenue, Denver, Colorado 80235, Telephone (800) 926-7337, <http://apps.awwa.org/ebusmain/OnlineStore.aspx> <https://www.awwa.org/Publications/Standards/Standards-List> or available to be viewed through the Department's state office.~~ (3-24-22)( )

~~02. Availability of Specific Referenced Material. Copies of specific documents referenced within these rules are available at the following locations:~~ ( )

~~a. All federal regulations: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, Telephone (202)783-3238; U.S. Government Bookstore, Room 194, Federal Bldg., 915 Second Ave., Seattle, WA 98174, (206) 553-4270; or Online at <http://www.gpoaccess.gov/cefr/index.html>.~~ (3-24-22)

~~b. All documents incorporated by reference are available for review at the Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208) 373-0502.~~ (3-24-22)

~~ea. Recommended Standards for Water Works – Policies for the Review and Approval of Plans and Specifications for Public Water Supplies: a report of the Water Supply Committee of the Great Lakes -- Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers, most current edition, published by Health Education Services, P.O. Box 7126, Albany, New York 12224, Telephone (518) 439-7286 <https://www.health.state.mn.us/communities/environment/water/tenstates/standards.html>.~~ (3-24-22)( )

- ~~dh.~~ Manual of Individual and Non-Public Water Supply Systems (EPA 570/9-91-004), published by the U.S. Environmental Protection Agency, ~~available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, Telephone (202) 782-3238~~ <https://nepis.epa.gov>. (3-24-22)(    )
- ~~e.~~ U.S. Department of Commerce, National Bureau of Standards Handbook, No. 69, "Maximum Permissible Concentrations of Radionuclides in Air and in Water for Occupational Exposure" as amended in 1963, NCRP Publications, P.O. Box 20175, Washington, D.C. 20014. (3-24-22)
- ~~f.~~ Rules of the Idaho Water Resources Board are available at <http://www.adminrules.idaho.gov/rules/37/37/index.htm>, or the Idaho Department of Water Resources, Idaho Water Center, 322 E. Front St., P.O. Box 83720, Boise, Idaho 83720-0098, Telephone (208) 287-4800. (3-24-22)
- ~~g.~~ ANSI/NSF Standard 44-2002e—2004, Residential Cation Exchange Water Softeners, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. (3-24-22)
- ~~hc.~~ ~~ANSI/NSF~~~~NSF/ANSI~~ Standard 53-2002e—2003~~2020~~, Drinking Water Treatment Units -- Health Effects, available from the National Sanitation Foundation, ~~789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010~~ <https://www.techstreet.com/nsf/> (or) [https://www.techstreet.com/nsf/standards/nsf-ansi-53-2020?product\\_id=2212861](https://www.techstreet.com/nsf/standards/nsf-ansi-53-2020?product_id=2212861). (3-24-22)(    )
- ~~id.~~ ~~ANSI/NSF~~~~NSF/ANSI~~ Standard 55-2002—2002~~2020~~, Ultraviolet Microbiological Water Treatment Systems, available from the National Sanitation Foundation, ~~789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010~~ <https://www.techstreet.com/nsf/> (or) [https://www.techstreet.com/nsf/standards/nsf-ansi-55-2020?product\\_id=2229644](https://www.techstreet.com/nsf/standards/nsf-ansi-55-2020?product_id=2229644). (3-24-22)(    )
- ~~je.~~ ~~ANSI/NSF~~~~NSF/ANSI~~ Standard 58-2003—2004~~2020~~, Reverse Osmosis Drinking Water Treatment Systems, available from the National Sanitation Foundation, ~~789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010~~ <https://www.techstreet.com/nsf/> (or) [https://www.techstreet.com/nsf/standards/nsf-ansi-58-2020?product\\_id=2206515](https://www.techstreet.com/nsf/standards/nsf-ansi-58-2020?product_id=2206515). (3-24-22)(    )
- ~~kf.~~ ~~ANSI/NSF~~~~NSF/ANSI/CAN~~ Standard 60-2000a—2000~~2021~~, Drinking Water Treatment Chemicals -- Health Effects, available from the National Sanitation Foundation, ~~789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010~~ <https://www.techstreet.com/nsf/> (or) [https://www.techstreet.com/nsf/standards/nsf-ansi-can-60-2021?product\\_id=2239369](https://www.techstreet.com/nsf/standards/nsf-ansi-can-60-2021?product_id=2239369). (3-24-22)(    )
- ~~lg.~~ ANSI/NSF Standard 61-2000a—2000~~2021~~, Drinking Water System Components -- Health Effects, available from the National Sanitation Foundation, ~~789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010~~ <https://www.techstreet.com/nsf/> (or) [https://www.techstreet.com/nsf/standards/nsf-ansi-can-61-2021?product\\_id=2240016](https://www.techstreet.com/nsf/standards/nsf-ansi-can-61-2021?product_id=2240016). (3-24-22)(    )
- ~~m.~~ American Water Works Association (AWWA) Standards, available from the AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235, (800) 926-7337, [www.awwa.org](http://www.awwa.org). (3-24-22)
- ~~n.~~ Cross-Connection Control Manual, available from Pacific Northwest Section of the American Water Works Association, P.O. Box 19581, Portland, OR, 97280-0581, Telephone (503) 246-5845. (3-24-22)
- ~~oh.~~ Manual of Cross-Connection Control, Current Edition, Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California, ~~KAP 200 University Park MC 2531, Los Angeles, CA 90089-2531, (866)545-6340; [www.usc.edu/dept/fccchr/](http://www.usc.edu/dept/fccchr/)~~. (3-24-22)(    )
- ~~pi.~~ Manual ~~on~~ of design for Slow Sand Filtration (1991), published by AWWA Research Foundation 6666 West Quincy Avenue, Denver, CO 80235, (800)926-7337, [www.awwa.org](http://www.awwa.org) <https://www.directtextbook.com/isbn/0898675510>. (3-24-22)(    )
- ~~qj.~~ Slow Sand Filtration (1991), published by the American Society of Civil Engineers American

Society of Civil Engineers, ~~1801 Alexander Bell Drive, Reston, VA 20191, (800)548-2723, [www.asce.org](http://www.asce.org) <https://www.amazon.com/Slow-Sand-Filtration-Gary-Logsdon/dp/0872628477>.~~ (3-24-22)( )

~~**k.** Slow Sand Filtration and Diatomaceous Earth Filtration for Small Water Systems, DOH Pub #331-204 (4/03), Washington State Department of Health, Division of Environmental Health, Office of Drinking Water, PO Box 47828, Olympia WA 98504-7828, (360)236-3100 or (800)521-0323, [http://www.doh.wa.gov/ehp/dw/Programs/water\\_sys\\_design.htm](http://www.doh.wa.gov/ehp/dw/Programs/water_sys_design.htm) <https://www.scribd.com/document/163696548/331-204-pdf>.~~ (3-24-22)( )

~~**l.** Recommended Operations and Optimization Goals, Slow Sand Filtration, DOH Pub #331-601 (6/21), Washington State Department of Health, Division of Environmental Health, Office of Drinking Water, <https://www.doh.wa.gov/Portals/1/Documents/Pubs/331-601.pdf>.~~ ( )

~~**m.** Water System Design Manual, DOH Pub #331-123 (Rev. 8/016-20), Washington State Department of Health, Division of Environmental Health, Office of Drinking Water, PO Box 47828, Olympia WA 98504-7828, (360)236-3100 or (800)521-0323, [http://www.doh.wa.gov/ehp/dw/Programs/water\\_sys\\_design.htm](http://www.doh.wa.gov/ehp/dw/Programs/water_sys_design.htm) <https://www.doh.wa.gov/CommunityandEnvironment/DrinkingWater/WaterSystemDesignandPlanning/SystemDesign>.~~ (3-24-22)( )

~~**n.** Submersible Motors: Application, Installation, Maintenance (Franklin Electric AIM manual), Franklin Electric, Bluffton, Indiana 46714, (800)348-2420, <http://www.franklin-electric.com/aim-manual.aspx>.~~ (3-24-22)

~~**o.** Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems Using Surface Water Sources (March 1991 Edition), U.S. Environmental Protection Agency, <http://water.epa.gov/lawsregs/rulesregs/sdwa/swtr/upload/guidsws.pdf>.~~ ( )

~~**p.** Standard Methods for the Examination of Water and Wastewater, a joint publication of the American Public Health Association, the Water Environment Federation, and the American Water Works Association, 6666 West Quincy Avenue, Denver, CO 80235, 800-926-7337, [www.standardmethods.org](http://www.standardmethods.org).~~ (3-24-22)( )

~~**q.** F480-02 Standard Specification for Thermoplastic Well Casing Pipe and Couplings Made in Standard Dimension ratios (SDR), SCH 40 and SCH 80, American Society for Testing and Materials (ASTM Standard F480-02).~~ (3-24-22)

~~**r.** "Idaho Standards for Public Works Construction," Local Highway Technical Assistance Council, 3330 Grace Street, Boise, ID 83605, (208)344-0565 <https://lhtac.org/resources/ispwc>.~~ (3-24-22)( )

~~**s.** Memorandum of Understanding between the Idaho Department of Environmental Quality and the Idaho Division of Building Safety Plumbing Bureau, Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706, [www.deq.idaho.gov](http://www.deq.idaho.gov).~~ ( )

~~**t.** Idaho General Safety and Health Standards (IGSHS), available from the Idaho Division of Building Safety, 1090 E. Watertower St., Meridian, Idaho 83642, (208)334-3950, <http://dbs.idaho.gov/>.~~ (3-24-22)

~~**u.** Implementation Guidance for the Long Term 2 Enhanced Surface Water Treatment Rule, Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706, [www.deq.idaho.gov](http://www.deq.idaho.gov) <https://www2.deq.idaho.gov/admin/LEIA/api/document/download/6040>.~~ (3-24-22)( )

~~**v.** Implementation Guidance for the Stage 2 Disinfectants and Disinfection Byproducts Rule, Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706, [www.deq.idaho.gov](http://www.deq.idaho.gov) <https://www2.deq.idaho.gov/admin/LEIA/api/document/download/4790>.~~ (3-24-22)( )

~~**w.** Implementation Guidance for the Drinking Water Program-Ground Water Rule, Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706, [www.deq.idaho.gov](http://www.deq.idaho.gov) <https://www2.deq.idaho.gov/admin/LEIA/api/document/download/4778>.~~ (3-24-22)( )

~~ddu.~~ AWWA Recommended Practice for Backflow Prevention and Cross-Connection Control (M14), current edition available from the AWWA, ~~6666 West Quincy Avenue, Denver, Colorado 80235, Telephone (800) 926-7337~~ <https://engage.awwa.org/PersonifyEbusiness/Store/Product-Details/productId/46494412>. (3-24-22)( )

~~eev.~~ Membrane Filtration Guidance Manual (EPA 815-R-06-009) published by the U.S. Environmental Protection Agency, ~~available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, Telephone (202) 782-3238, http://www.epa.gov/ogwdw/disinfection/lt2/pdfs/guide\_lt2\_membranefiltration\_final.pdf~~ [https://sswm.info/sites/default/files/reference\\_attachments/EPA%202005%20Membrane%20Filtration%20Guidance%20Manual.pdf](https://sswm.info/sites/default/files/reference_attachments/EPA%202005%20Membrane%20Filtration%20Guidance%20Manual.pdf). (3-24-22)( )

~~ffw.~~ Ultraviolet Disinfection Guidance Manual for the Final Long Term 2 Enhanced Surface water Treatment Rule (EPA 815-R-06-007) published by the U.S. Environmental Protection Agency, ~~available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, Telephone (202) 782-3238, www.epa.gov/safewater/disinfection/lt2/pdfs/guide\_lt2\_uvguidance.pdf~~ <https://www.epa.gov/dwreginfo/long-term-2-enhanced-surface-water-treatment-rule-documents>. (3-24-22)( )

~~ggx.~~ Improving Clearwell Design for CT Compliance, Report #90756, available from the Water Research Foundation, ~~http://waterrf.org/ProjectsReports/PublicReportLibrary/RFR90756\_2000\_271.pdf~~ <https://www.waterrf.org/research/projects/improving-clearwell-design-ct-compliance>. (3-24-22)( )

~~hhv.~~ Surface Water Treatment Rule Compliance Guidance, dated January 10, 1996, Idaho Department of Environmental Quality, ~~www.deq.idaho.gov~~ <https://www.deq.idaho.gov/public-information/laws-guidance-and-orders/guidance/>. (3-24-22)( )

~~iiz.~~ Uniform Plumbing Code, available ~~at through the Idaho~~ Division of Building Safety, 1090 E. Watertower St., Meridian, Idaho 83642; and at the Division of Building Safety, ~~1250 Ironwood Dr., Ste. 220, Coeur d'Alene, Idaho 83814, http://dbs.idaho.gov~~. (3-24-22)( )

~~aa.~~ Optimizing Water Treatment Plant Performance Using the Composite Correction Program (EPA/625/6-91/027) published by the U.S. Environmental Protection Agency, [https://cfpub.epa.gov/si/si\\_public\\_record\\_report.cfm?Lab=NRMRL&direntryid=23902](https://cfpub.epa.gov/si/si_public_record_report.cfm?Lab=NRMRL&direntryid=23902). ( )

**03. Precedence.** In the event of conflict or inconsistency between the language in these rules and that found in any document incorporated by reference, these rules ~~shall~~ prevail. (3-24-22)( )

### 003. DEFINITIONS.

The definitions set forth in 40 CFR 141.2 are ~~herein~~ incorporated by reference, ~~except for the definition of the terms “action level,” “disinfection,” “noncommunity water system,” and “person.”~~ The terms “board,” “director,” “department,” and “person” have the meaning provided in Section 39-103, Idaho Code. The term “watersheds” has the meaning provided in Section 39-3602, Idaho Code. The terms “distribution system,” “license,” “responsible charge,” and “responsible charge operator” have the meaning provided in Section 54-2403, Idaho Code. The term “public utility” has the meaning provided in Section 61-129, Idaho Code. The term “pesticide” has the meaning provided in Section 22-3401, Idaho Code. (3-24-22)( )

~~01. Action Level.~~ The concentration of lead or copper in water that determines, in some cases, whether a water system must install corrosion control treatment, monitor source water, replace lead service lines, or undertake a public education program. (3-24-22)

~~02. Administrator.~~ The Administrator of the United States Environmental Protection Agency. (3-24-22)

~~03. Annual Samples.~~ Samples that are required once per calendar year. (3-24-22)

~~04. Annular Opening.~~ As used in well construction, this term refers to the nominal inside diameter of the borehole minus the outside diameter of the casing divided by two (2). (3-24-22)

~~05.1. Aquifer.~~ A geological formation of permeable saturated material, such as rock, sand, gravel, etc.,



capable of yielding an economic quantity of water to wells and springs. ( )

~~06. Average Day Demand. The volume of water used by a system on an average day based on a one (1) year period. See also the definition of Water Demand in these rules. (3-24-22)~~

~~072. Backflow. The reverse from normal flow direction in a plumbing system or water system caused by back pressure or back siphonage. ( )~~

~~08. Bag Filters. Pressure driven separation devices that remove particulate matter larger than one (1) micrometer using an engineered porous filtration media. They are typically constructed of a non-rigid, fabric filtration media housed in a pressure vessel in which the direction of flow is from the inside of the bag to the outside. (3-24-22)~~

~~09. Bank Filtration. A water treatment process that uses a well to recover surface water that has naturally infiltrated into ground water through a river bed or bank(s). Infiltration is typically enhanced by the hydraulic gradient imposed by a nearby pumping water supply or other well(s). (3-24-22)~~

~~10. Board. The Idaho Board of Environmental Quality. (3-24-22)~~

~~103. Capacity. The capabilities required of a public drinking water system (PWS) in order to achieve and maintain compliance with these rules and the requirements of the federal Safe Drinking Water Act (SDWA). It is divided into three (3) main elements: (3-24-22)( )~~

~~a. Technical capacity means the system PWS has the physical infrastructure to consistently meet drinking water quality standards and treatment requirements and is able to meet the requirements of routine and emergency operations. It further means the ability of system PWS personnel to adequately operate and maintain the system PWS and to otherwise implement technical knowledge. Training of operator(s) is required, as appropriate, for the system size and complexity. (3-24-22)( )~~

~~b. Financial capacity means the financial resources of the water system PWS, including an appropriate budget; rate structure; cash reserves sufficient for current operation and maintenance, future needs and emergency situations; and adequate fiscal controls. (3-24-22)( )~~

~~c. Managerial capacity means that the management structure of the water system PWS embodies the aspects of water system operations, including, but not limited to; (3-24-22)( )~~

~~i. Short and long range planning; ( )~~

~~ii. Personnel management; ( )~~

~~iii. Fiduciary responsibility; ( )~~

~~iv. Emergency response; ( )~~

~~v. Customer responsiveness; ( )~~

~~vi. Source water protection; ( )~~

~~vii. Administrative functions such as billing and consumer awareness; and ( )~~

~~viii. Ability to meet the intent of the federal Safe Drinking Water Act SDWA. (3-24-22)( )~~

~~12. Cartridge Filters. Pressure driven separation devices that remove particulate matter larger than one (1) micrometer using an engineered porous filtration media. They are typically constructed as rigid or semi-rigid, self-supporting filter elements housed in pressure vessels in which flow is from the outside of the cartridge to the inside. (3-24-22)~~

~~13. **Clean Compliance History.** For the purposes of the Revised Total Coliform Rule in Subsection 100.01, clean compliance history means a record of no maximum contaminant level violations under Subsection 050.05, no monitoring violations under Subsection 100.01, and no coliform treatment technique trigger exceedances or treatment technique violations under Subsection 100.01. (3-24-22)~~

~~14. **Combined Distribution System.** The interconnected distribution system consisting of the distribution systems of wholesale systems and of the consecutive systems that receive finished water. (3-24-22)~~

~~15. **Community Water System.** A public water system which serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents. See also the definition of a Public Drinking Water System in these rules. (3-24-22)~~

~~1604. **Components of Finished Water Storage.** Storage is available to serve the system if the storage structure or facility is elevated sufficiently or is equipped with sufficient booster pumping capability to pressurize the system. Components of finished water storage are further defined as: ( )~~

~~a. **Dead Storage.** is Sstorage that is either not available for use in the system or can provide only substandard flows and pressures. (3-24-22)( )~~

~~b. **Effective Storage.** Effective storage is all storage other than dead storage and is made up of the additive components described in Paragraphs c. through f. of this Subsection. (3-24-22)( )~~

~~c. **Operational Storage.** Operational storage supplies water when, under normal conditions, the sources are off. This component is the larger of; (3-24-22)( )~~

~~i. The volume required to prevent excess pump cycling and ensure that the following volume components are full and ready for use when needed; or ( )~~

~~ii. The volume needed to compensate for the sensitivity of the water level sensors. ( )~~

~~d. **Equalization Storage.** is Sstorage of finished water in sufficient quantity to compensate for the difference between a water system's maximum pumping capacity and peak hour demand. (3-24-22)( )~~

~~e. **Fire Suppression Storage.** is Tthe water needed to support fire flow in those systems that provide it. (3-24-22)( )~~

~~f. **Standby Storage.** Standby storage provides a measure of reliability or safety factor ~~should~~ if sources fail or when unusual conditions impose higher than anticipated demands. Normally used for emergency operation, if standby power is not provided, to provide water for eight (8) hours of operation at average day demand. (3-24-22)( )~~

~~1705. **Composite Correction Program (CCP).** A systematic approach to identifying opportunities for improving the performance of water treatment and implementing changes that will capitalize on these opportunities. The CCP consists of two (2) elements: ( )~~

~~a. **Comprehensive Performance Evaluation (CPE).** ~~A thorough review and analysis of a treatment plant's performance based capabilities and associated administrative, operation, and maintenance practices. It is conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance and emphasizes approaches that can be implemented without significant capital improvements. The CPE must consist of at least the following components: assessment of plant performance; evaluation of major unit processes; identification and prioritization of performance limiting factors; assessment of the applicability of comprehensive technical assistance; and preparation of a CPE report. As defined in 40 CFR 141.2.~~ (3-24-22)( )~~

~~b. **Comprehensive Technical Assistance (CTA).** is Tthe implementation phase that is carried out if the CPE results indicate improved performance potential. During the CTA phase, the ~~system~~ PWS must identify and systematically address plant-specific factors. The CTA consists of follow-up to the CPE results, implementation of process control priority setting techniques, and maintaining long term involvement to systematically train staff and~~

administrators.

(3-24-22)( )

~~18. Compositing of Samples. The mixing of up to five (5) samples by the laboratory. (3-24-22)~~

~~1906. Confining Layer. A nearly impermeable subsurface stratum which is located adjacent to one (1) or more aquifers and does not yield a significant quantity of water to a well. ( )~~

~~20. Confirmation Sample. A sample of water taken from the same point in the system as the original sample and at a time as soon as possible after the original sample was taken. (3-24-22)~~

~~21. Connection. Each structure, facility, or premises which is connected to a water system, and which is or could be used for domestic purposes, is considered a single connection. A single family residence is considered to be a premises. Multi-family dwellings and apartment, condominium, and office complexes are considered single connections unless individual units are billed separately for water by the water system, in which case each such unit shall be considered a single connection. (3-24-22)~~

~~22. Consecutive System. A public water system that receives some or all of its finished water from one (1) or more wholesale systems. Delivery may be through a direct connection or through the distribution system of one (1) or more consecutive systems. (3-24-22)~~

~~2307. Consumer. Any person served by a public water system PWS. (3-24-22)( )~~

~~2408. Consumer Confidence Report (CCR). An annual report that community water systems must deliver to their customers. The reports must contain information on the quality of the water delivered by the systems PWS and characterize the risks (if any) from exposure to contaminants detected in the drinking water in an accurate and understandable manner. (3-24-22)( )~~

~~25. Contaminant. Any physical, chemical, biological, or radiological substance or matter in water. (3-24-22)~~

~~2609. Cross Connection. Any actual or potential connection or piping arrangement between a public or a consumer's potable water system and any other source or system through which it is possible to introduce into any part of the potable water system used water, water from any source other than an approved public water system, industrial fluid, gas or substance other than the intended potable water with which the system is supplied. Cross connections include bypass arrangements, jumper connections, removable sections, swivel or change over devices and other temporary or permanent devices which, or because of which "backflow" can or may occur. An actual or potential connection or piping arrangement between a drinking water system and another source that could introduce contamination into the potable water system through backflow, backsiphoning, or backpressure. (3-24-22)( )~~

~~2710. Dead End Main. A distribution main of any diameter and length that does not loop back into the distribution system. ( )~~

~~28. Dead Storage. Storage that is either not available for use in the system or can provide only substandard flows and pressures. See also the definition of Components of Finished Water Storage in these rules. (3-24-22)~~

~~29. Department. The Idaho Department of Environmental Quality. (3-24-22)~~

~~30. Director. The Director of the Department of Environmental Quality or his designee. (3-24-22)~~

~~3411. Direct Integrity Test (DIT). A physical test applied to a microfiltration or ultrafiltration membrane unit in order to identify integrity breaches. ( )~~

~~32. Disinfection. Introduction of chlorine, other agents, or processes that are approved by the Department (such as ultraviolet light) in sufficient concentration, dosage, or application, and for the time required to kill or inactivate pathogenic and indicator organisms. (3-24-22)~~

~~33. **Disinfection Profile.** A summary of daily Giardia lamblia inactivation through the drinking water treatment plant. The procedure for developing a disinfection profile is contained in 40 CFR 141.172 and 40 CFR 141.530-141.536. (3-24-22)~~

~~34. **Distribution System.** Any combination of pipes, tanks, pumps, and other equipment which delivers water from the source(s), treatment facility(ies), or a combination of source(s) and treatment facility(ies) to the consumer. Chlorination may be considered as a function of a distribution system. (3-24-22)~~

~~35. **Drinking Water.** Means “water for human consumption.” (3-24-22)~~

~~36~~**12. **Drinking Water System.** All mains, pipes, and structures through which water is obtained and distributed, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use. ( )**

~~37. **Dual Sample Set.** A set of two (2) samples collected at the same time and same location, with one (1) sample analyzed for TTHM and the other sample analyzed for HAA5. Dual sample sets are collected for the purposes of conducting an Initial Distribution System Evaluation (40 CFR Part 141, Subpart U) and for determining compliance with the TTHM and HAA5 MCLs under the Stage 2 Disinfection Byproducts Requirements (40 CFR Part 141, Subpart V). (3-24-22)~~

~~38~~**13. **Effective Contact Time.** For the purpose of these rules, effective contact time means the time in minutes that it takes for water to move from the point of completely mixed chemical application to the point where residual concentration is measured. It is the “T” in contact time (CT) calculations and is either “demonstrated” or “calculated.” It is the contact time sufficient to achieve the inactivation of target pathogens under the expected range of raw water pH and temperature variation and must be demonstrated through tracer studies or other evaluations or calculations acceptable to the Department. “Improving Clearwell Design for CT Compliance,” referenced in Subsection 002.02, contains information that may be used as guidance for these calculations. ( )**

~~39. **Effective Storage.** Effective storage is all storage other than dead storage and is made up of the additive components described in Paragraphs e. through f. of the definition of Components of Finished Water Storage in these rules. (3-24-22)~~

~~40. **Enhanced Coagulation.** The addition of sufficient coagulant for improved removal of disinfection byproduct precursors by conventional filtration treatment. Conventional filtration treatment is defined in 40 CFR 141.2. (3-24-22)~~

~~41. **Enhanced Softening.** The improved removal of disinfection byproduct precursors by precipitative softening. (3-24-22)~~

~~42. **Equalization Storage.** Storage of finished water in sufficient quantity to compensate for the difference between a water system’s maximum pumping capacity and peak hour demand. See also the definition of Components of Finished Water Storage in these rules. (3-24-22)~~

~~43~~**14. **Equivalent Dwelling Unit (EDU).** A unit of measure that standardizes all land use types (housing, retail, office, etc.) to the level of demand created by a single-family detached housing unit within a water system. The demand for one (1) equivalent dwelling unit is equivalent to the amount of water provided to the average single-family detached housing unit within a water system. For example, a business designed to use three (3) times as much water as an average single-family detached housing unit ~~would~~ will have a demand of three (3) equivalent dwelling units. (3-24-22)( )**

~~44~~**15. **Exemption.** A temporary deferment of compliance with a maximum contaminant level or treatment technique requirement which may be granted only if the ~~system~~ PWS demonstrates to the satisfaction of the Department that the ~~system~~ PWS cannot comply due to compelling factors and the deferment does not cause an unreasonable risk to public health. (3-24-22)( )**

~~45~~**16. **Facility Plan.** The facility plan for a ~~public drinking water system~~ PWS describes the overall**

system, including sources of water, treatment processes and facilities, pumping stations and distribution piping, finished water storage, and waste disposal. It is a comprehensive planning document for infrastructure and includes a plan for the future of the system/facility, including upgrades and additions. It is usually updated on a regular basis due to anticipated or unanticipated growth patterns, regulatory requirements, or other infrastructure needs. A facility plan is sometimes referred to as a master plan or facilities planning study. In general, a facility plan is an overall system-wide plan as opposed to a project specific plan. (3-24-22)( )

~~46. **Facility Standards and Design Standards.** Facility standards and design standards are described in Sections 500 through 552 of these rules. Facility and design standards found in Sections 500 through 552 of these rules must be followed in the planning, design, construction, and review of public drinking water facilities. (3-24-22)~~

~~47. **Fee Assessment.** A charge assessed on public drinking water systems based on a rate structure calculated by system size. (3-24-22)~~

~~48. **Filter Profile.** A graphical representation of individual filter performance, based on continuous turbidity measurements or total particle counts versus time for an entire filter run, from startup to backwash inclusively, that includes an assessment of filter performance while another filter is being backwashed. (3-24-22)~~

~~49~~**17. **Filtrate.** As the term relates to microfiltration and ultrafiltration, the product water or the portion of the feed stream that has passed through the membrane. ( )**

~~50. **Finished Water.** Water that is introduced into the distribution system of a public water system and is intended for distribution and consumption without further treatment, except as necessary to maintain water quality in the distribution system (e.g., booster disinfection, addition of corrosion control chemicals). (3-24-22)~~

~~51~~**18. **Finished Water Storage Structures or Facilities.** Finished water storage structures or facilities are defined as: ( )**

~~a. Above-ground storage structure or facility: is Aa finished water storage structure or facility with a bottom elevation above normal ground surface. (3-24-22)( )~~

~~b. Ground-level storage structure or facility: is Aa finished water storage structure or facility with a bottom elevation at normal ground surface. (3-24-22)( )~~

~~c. Partially buried storage structure or facility: is Aa finished water storage structure or facility with a bottom elevation below normal ground surface and any portion of the structure or facility above normal ground surface. (3-24-22)( )~~

~~d. Below-ground storage structure or facility: is Aa finished water storage structure or facility with a bottom elevation and top elevation below normal ground surface. (3-24-22)( )~~

~~52~~**19. **Fire Flow Capacity.** The water system capacity, in addition to maximum day demand, that is available for fire fighting purposes within the water system or distribution system pressure zone. Adequacy of the water system fire flow capacity is determined by the local fire authority or through a hydraulic analysis performed by a licensed professional engineer to establish required fire flows in accordance with the International Fire Code as adopted by the State Fire Marshal. ( )**

~~53~~**20. **Fire Suppression Storage.** The water needed to support fire flow in those systems that provide it. See also the definition of Components of Finished Water Storage in these rules. ( )**

~~54~~**21. **Fixture Protection.** The practice of installing backflow prevention assemblies or devices to isolate one (1) or more cross connections within a customer's facility. ( )**

~~55. **Flowing Stream.** As used in the Long Term 2 Enhanced Surface Water Treatment Rule (40 CFR Part 141, Subpart W), this term means a course of running water flowing in a definite channel. (3-24-22)~~

~~56~~**22. **Flux.** The throughput of a pressure-driven membrane filtration process expressed as flow per unit**

of membrane area, usually in gallons per square foot per day or liters per hour per square meter. ( )

~~57. Ground Water System. A public water system which is supplied exclusively by a ground water source or sources. (3-24-22)~~

~~58. Ground Water Under the Direct Influence of Surface Water (GWUDI). Any water beneath the surface of the ground with significant occurrence of insects or other macroorganisms, algae, or large diameter pathogens such as Giardia lamblia or Cryptosporidium, or significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH which closely correlate to climatological or surface water conditions. Direct influence shall be determined by the Department for individual sources. The determination of direct influence may be based on site specific measurements of water quality, documentation of well construction characteristics and geology with field evaluation, a combination of water quality and documentation, or other information required by the Department. (3-24-22)~~

~~59. Haloacetic Acids (Five) (HAA5). The sum of the concentrations in milligrams per liter of the haloacetic acid compounds (monochloroacetic acid, dichloroacetic acid, trichloroacetic acid, monobromoacetic acid, and dibromoacetic acid) rounded to two (2) significant figures after addition. (3-24-22)~~

~~6023. Health Hazards. Any condition, operation, or practice in a PWS which creates, or may has the potential to create, an acute or immediate danger to the consumer's health. Health hazards may consist of, but are not limited to, design, construction, operational, structural, collection, storage, distribution, monitoring, treatment or water quality elements of a public water system. See also the definition of Significant Deficiency, which refers to a health hazard identified during a sanitary survey. (3-24-22)( )~~

~~6124. Indirect Integrity Monitoring. Monitoring some aspect of filtrate water quality that is indicative of the removal of particulate matter. ( )~~

~~6225. Inorganic. Generally refers to compounds that do not contain carbon and hydrogen. ( )~~

~~6326. Internal or In-Plant Isolation. The practice of installing backflow prevention assemblies to protect an area within a water customer's structure, facility, or premises from contaminating another part of the structure, facility, or premises. ( )~~

~~64. Lake/Reservoir. As used in the Long Term 2 Enhanced Surface Water Treatment Rule (40 CFR Part 141, Subpart W), this term means a natural or man-made basin or hollow on the Earth's surface in which water collects or is stored that may or may not have a current or single direction of flow. (3-24-22)~~

~~65. Level 1 Assessment. A Level 1 Assessment is an evaluation to identify the possible presence of sanitary defects, defects in distribution system coliform monitoring practices, and (when possible) the likely reason that the system triggered the assessment. It is conducted by the system operator or owner. Minimum elements include review and identification of atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage); source and treatment considerations that bear on distributed water quality, where appropriate (e.g., whether a ground water system is disinfected); existing water quality monitoring data; and inadequacies in sample sites, sampling protocol, and sample processing. The system must conduct the assessment consistent with any Department directives that tailor specific assessment elements with respect to the size and type of the system and the size, type, and characteristics of the distribution system. (3-24-22)~~

~~66. Level 2 Assessment. A Level 2 Assessment is an evaluation to identify the possible presence of sanitary defects, defects in distribution system coliform monitoring practices, and (when possible) the likely reason that the system triggered the assessment. A Level 2 assessment provides a more detailed examination of the system (including the system's monitoring and operational practices) than does a Level 1 assessment through the use of more comprehensive investigation and review of available information, additional internal and external resources, and other relevant practices. It is conducted by an individual approved by the Department in accordance with Subsection 305.03, which may include the system operator. Minimum elements include review and identification of atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage);~~

~~source and treatment considerations that bear on distributed water quality, where appropriate (e.g., whether a ground water system is disinfected); existing water quality monitoring data; and inadequacies in sample sites, sampling protocol, and sample processing.~~ (3-24-22)

~~67. License. A physical document issued by the Idaho Division of Occupational and Professional Licenses certifying that an individual has met the appropriate qualifications and has been granted the authority to practice in Idaho under the provisions of Chapter 24, Title 54, Idaho Code.~~ (3-24-22)

~~68. Locational Running Annual Average (LRAA). The average of sample analytical results for samples taken at a particular monitoring location during the previous four (4) calendar quarters, as set forth in the Stage 2 Disinfection Byproducts Requirements (40 CFR Part 141, Subpart V).~~ (3-24-22)

~~69~~**27. Log.** Logarithm to the base ten (10). In the context of these rules, it is used in the determination of removal or inactivation efficiencies. It is expressed as the logarithm to the base ten (10) or “log” of the concentration of the feed or raw water minus the log of the concentration in the filtrate or product water. For example, if the incoming feed or raw water concentration is one hundred (100), and the outgoing filtrate or product water concentration is ten (10), a 10-fold reduction was attained; or 1-log removal. 1-log removal also equates to ninety percent (90%) removal, as ninety (90) of the original feed concentration counts had been removed, leaving ten (10) in the filtrate. Similarly, 2-log equates to ninety-nine percent (99%) removal. ( )

~~70~~**28. Log Removal Value (LRV).** LRV is a measure of filtration removal efficiency for a target organism, particulate, or surrogate expressed as Logarithm to the base ten (10). ( )

~~71~~**29. Material Deviation.** A change from the design plans that significantly alters the type or location of facilities, requires engineering judgment to design, or impacts the public safety or welfare system components (3-24-22)( )

~~72~~**30. Material Modification.** ~~Those m~~Modifications of an existing ~~public water system~~ PWS that are ~~intended to~~ increase system capacity or alter the methods or processes employed. ~~Any project that adds source water to a system, increases the pumping capacity of a system, increases the potential population served by the system or the number of service connections within the system, adds new or alters existing drinking water system components, or affects the water demand of the system is considered to be increasing system capacity or altering the methods or processes employed. Maintenance and repair performed on the system and the replacement of valves, pumps, or other similar items with new items of the same size and type are not considered a material modification. Increasing system capacity occurs by adding a new water source to a PWS, increasing the pumping and hydraulic capacity of the PWS, increasing potable water demand, or increasing the number of service connections. Altering methods or processes employed occurs by adding new, or altering existing, system components to satisfy increasing potable water demand, or changing engineering design intent of potable water delivery or treatment. Maintenance as outlined in the approved operation and maintenance manual is not a material modification.~~ (3-24-22)( )

~~73. Maximum Contaminant Level (MCL).~~ The maximum permissible level of a contaminant in water which is delivered to any user of a public water system. (3-24-22)

~~74. Maximum Day Demand.~~ The average rate of consumption for the twenty four (24) hour period in which total consumption is the largest for the design year. See also the definition of Water Demand in these rules. (3-24-22)

~~75~~**31. Maximum Pumping Capacity.** The pumping capacity with the largest source or pump out of service. ( )

~~76. Maximum Residual Disinfectant Level (MRDL).~~ A level of a disinfectant added for water treatment that may not be exceeded at the consumer’s tap without an unacceptable possibility of adverse health effects. For chlorine and chloramines, a public water system is in compliance with the MRDL, when the running annual average of monthly averages of samples taken in the distribution system, computed quarterly, is less than or equal to the MRDL. For chlorine dioxide, a public water system is in compliance with the MRDL when daily samples are taken at the entrance to the distribution system and no two (2) consecutive daily samples exceed the MRDL. MRDLs are enforceable in the same manner as maximum contaminant levels under Section 1412 of the Safe

~~Drinking Water Act. There is convincing evidence that addition of a disinfectant is necessary for control of waterborne microbial contaminants. Notwithstanding the MRDLs listed in 40 CFR 141.65, operators may increase residual disinfectant levels of chlorine or chloramines (but not chlorine dioxide) in the distribution system to a level and for a time necessary to protect public health to address specific microbiological contamination problems caused by circumstances such as distribution line breaks, storm runoff events, source water contamination, or cross-connections.~~ (3-24-22)

~~77. **Maximum Residual Disinfectant Level Goal (MRDLG).** The maximum level of a disinfectant added for water treatment at which no known or anticipated adverse effect on the health of persons would occur, and which allows an adequate margin of safety. MRDLGs are nonenforceable health goals and do not reflect the benefit of the addition of the chemical for control of waterborne microbial contaminants.~~ (3-24-22)

~~78. **Membrane Filtration.** A pressure or vacuum driven separation process in which particulate matter larger than one (1) micrometer ( $\mu\text{m}$ ) is rejected by an engineered barrier, primarily through a size exclusion mechanism. This definition includes the common membrane technologies of microfiltration, ultrafiltration, nanofiltration, and reverse osmosis.~~ (3-24-22)

~~79~~<sup>32</sup>. **Membrane Unit.** A group of treatment systems or membrane modules that usually share common control and valving so that the group can be isolated for testing or cleaning. ( )

~~80. **Method Detection Limit (MDL).** The lowest concentration which can be determined to be greater than zero with ninety-nine percent (99%) confidence, for a particular analytical method.~~ (3-24-22)

~~81~~<sup>33</sup>. **Microfiltration (MF).** A low-pressure membrane filtration process with pore diameter normally in the range of 0.1 to 0.5  $\mu\text{m}$ . (3-24-22)( )

~~82~~<sup>34</sup>. **Module.** As the term relates to membrane filtration, it is the smallest component of a membrane unit in which a specific membrane surface area is housed. The component is typically equipped with a feedwater inlet, a filtrate outlet, and concentrate or backwash outlet structure. ( )

~~83~~<sup>35</sup>. **Nanofiltration (NF).** A membrane filtration process that removes dissolved constituents from water. Nanofiltration is similar to reverse osmosis but allows a higher percentage of certain ions to pass through the membrane. These systems typically operate under higher pressure than microfiltration and ultrafiltration. ( )

~~84~~<sup>36</sup>. **New System.** Any water system that meets, for the first time, the definition of a public water system provided in Section 1401 of the federal Safe Drinking Water Act (42 U.S.C. Section 300f). This includes PWS, which includes systems that are entirely new construction and or previously unregulated systems that are expanding increased either the population served or connections. (3-24-22)( )

~~85. **Noncommunity Water System.** A public water system that is not a community water system. A non-community water system is either a transient noncommunity water system or a non-transient noncommunity water system. See also the definition of a Public Drinking Water System in these rules.~~ (3-24-22)

~~86~~<sup>37</sup>. **Non-Potable Fluids or Gases.** Any fluids or gases that do not meet the definition of potable water. This definition also includes any gases that are heavier than air such as propane. (3-24-22)( )

~~87~~<sup>38</sup>. **Non-Potable Mains.** Pipelines that collect, deliver, or otherwise convey non-potable fluids. ( )

~~88~~<sup>39</sup>. **Non-Potable Services or Lines.** Pipelines that collect, deliver, or otherwise convey non-potable fluids to or from a non-potable main. These pipelines connect individual facilities to the non-potable main. This term also refers to pipelines that convey non-potable fluids from a pressurized irrigation system, reclaimed wastewater system, and other non-potable systems to individual consumers. ( )

~~89. **Nontransient Noncommunity Water System.** A public water system that is not a community water system and that regularly serves at least twenty-five (25) of the same persons over six (6) months per year. See also the definition of a Public Drinking Water System in these rules.~~ (3-24-22)



~~9040.~~ **Operating Shift.** ~~That~~Any period of time during which ~~water system operator decisions that affect public health are necessary for proper operation of the system~~ a licensed operator must be present, or available, for proper operation or oversight of the PWS. (3-24-22)( )

~~9141.~~ **Operational Storage.** Operational storage supplies water when, under normal conditions, the sources are off. This component is the larger of the volume required to prevent excess pump cycling and ensure that the following volume components are full and ready for use when needed or the volume needed to compensate for the sensitivity of the water level sensors. See also the definition of Components of Finished Water Storage in these rules. ( )

~~9242.~~ **Operation and Maintenance Manual.** ~~An operation and maintenance manual~~A comprehensive document that provides procedures for the operations and maintenance of the PWS. The manual typically covers three main subjects: a water system specific operations plan (see definition of Operations Plan); maintenance information and checklists; and manufacturer's product information (including trouble shooting information, a parts list and parts order form, special tools, spare parts list, etc.). An operation and maintenance manual may cover every aspect of the water system or any part of the water system, including but not limited to the following: treatment, pump stations, storage reservoirs, distribution system, pressure reducing valve stations, etc. (3-24-22)( )

~~9343.~~ **Operations Plan.** The operations plan is part of an operation and maintenance manual. Depending on which facilities of the ~~water system~~ PWS are being addressed, the operations plan may cover many types of information including but not limited to the following: daily, weekly, monthly, and yearly operating instructions; information specific to a particular type of treatment; location of valves and other key distribution system features; pertinent telephone and address contact information including the responsible charge ~~water system~~ PWS operator and ~~water system~~ PWS owner; operator safety procedures; alarm system; emergency procedures; trouble-shooting advice; water quality testing; depressurization events; customer service; and response to customer complaints. (3-24-22)( )

~~9444.~~ **Owner/Purveyor of Water/Supplier of Water.** The person, company, corporation, association, or other organizational entity which holds legal title to the ~~public water system~~ PWS, who provides, or intends to provide, drinking water to the customers, and who is ultimately responsible for the ~~public water system~~ PWS operation. (3-24-22)( )

~~95.~~ **Peak Hour Demand.** ~~The highest hourly flow, excluding fire flow, that a water system or distribution system pressure zone is likely to experience in the design year. See also the definition of Water Demand in these rules.~~ (3-24-22)

~~96.~~ **Person.** ~~A human being, municipality, or other governmental or political subdivision or other public agency, or public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent or other legal representative of the foregoing or other legal entity.~~ (3-24-22)

~~97.~~ **Pesticides.** ~~Substances which meet the criteria for regulation pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, and any regulations adopted pursuant to FIFRA. For example, pesticides include, but are not limited to insecticides, fungicides, rodenticides, herbicides, and algacides.~~ (3-24-22)

~~9845.~~ **Plant Design Capacity.** The maximum design flow through treatment units. The minimum plant design capacity ~~could~~ may be equal to peak hour demand but ~~could~~ may also be equal to the maximum day demand if equalization storage is provided. (3-24-22)( )

~~9946.~~ **Plant.** A physical facility where drinking water ~~or wastewater~~ is treated or processed. (3-24-22)( )

~~100.~~ **Point of Use (POU) Treatment Device.** ~~A treatment device applied to a single tap used for the purpose of reducing contaminants in drinking water at that one tap.~~ (3-24-22)

~~10147.~~ **Point of Use (POU) Treatment System.** A collection of POU treatment devices. ( )

- ~~402~~**48. Potable Mains.** Pipelines that deliver potable water to multiple service connections. ( )
- ~~403~~**49. Potable Services.** Pipelines that convey potable water from a service connection to the potable water main to individual consumers. (3-24-22)( )
- ~~404~~**50. Potable Water.** Water for human consumption. ~~See the definition of Water for Human Consumption in Section 003. Also referred to as Water for Human Consumption or Drinking Water.~~ (3-24-22)( )
- ~~405~~**51. Preliminary Engineering Report (PER).** ~~The preliminary engineering report for a public drinking water system facility is a~~ report that addresses specific portions of the system PWS or facility for which modifications are being designed. Modifications may include, but are not limited to, significant changes to existing processes or facilities, system PWS expansion, addition of treatment, or installation of other processes and facilities. This report addresses specific purpose and scope, design requirements, alternative solutions, costs, operation and maintenance requirements, and other requirements as described in Section 503. Preliminary engineering reports are generally project specific as opposed to an overall system-wide plan, such as a facility plan. (3-24-22)( )
- ~~406~~**52. Premises Isolation or Containment.** The practice of separating the customer's structure, facility, or premises from the purveyor's system PWS by means of a backflow prevention assembly installed on the service line before any distribution takes place. (3-24-22)( )
- ~~407. Presedimentation.~~ ~~A preliminary treatment process used to remove gravel, sand, and other particulate material from the source water through settling before the water enters the primary clarification and filtration processes in a treatment plant.~~ (3-24-22)
- ~~408~~**53. Protected Water Source.** For the purposes of the Revised Total Coliform Rule (40 CFR Part 141, Subpart Y), a protected water source is a ground-water well that is not susceptible to contamination on the basis of well construction, hydrologic data, or contamination history. (3-24-22)( )
- ~~409~~**54. Public Notice.** The notification ~~of public water system to~~ PWS consumers of information pertaining to that water system PWS including information regarding water quality or compliance status of the water system PWS. (3-24-22)( )
- ~~410~~**55. Public Drinking Water System (PWS).** A system for the provision to the public of water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least fifteen (15) service connections, regardless of the number of water sources or configuration of the distribution system, or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes: any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Such term does not include any "special irrigation district." A public water system is either a "community water system" or a "noncommunity water system" as further defined as: (3-24-22)( )
- a.** Community water system. A ~~public water system~~ PWS which serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents. (3-24-22)( )
- b.** Non-community water system. A ~~public water system~~ PWS that is not a community water system. A non-community water system is either a transient non-community water system or a non-transient non-community water system. (3-24-22)( )
- c.** Non-transient non-community water system. A ~~public water system~~ PWS that is not a community water system and that regularly serves at least twenty-five (25) of the same persons over six (6) months per year. (3-24-22)( )
- d.** Transient non-community ~~public~~ water system. A non-community water system which does not regularly serve at least twenty-five (25) of the same persons over six (6) months per year. (3-24-22)( )

- ~~115~~**56. Public Water System (PWS)/Water System/System.** Means “public drinking water system.” (3-24-22)( )
- ~~112~~**57. Pump House.** A structure containing important water system components, such as a well, hydropneumatic tank, booster pump, pump controls, flow meter, well discharge line, or a treatment unit. Pump houses are often called well houses in common usage, even though in modern construction these structures may not contain either a well or a pump. These terms are used interchangeably in national standards and trade publications. ( )
- ~~113~~**58. Qualified Licensed Professional Engineer (QLPE).** A professional engineer licensed by the state of Idaho; qualified by education or experience in the specific technical fields involved in these rules; and retained or employed by a city, county, quasi-municipal corporation, or regulated public utility for the purposes of plan and specification review. ( )
- ~~114~~**59. Quasi-Municipal Corporation.** A public entity, other than community government, created or authorized by the legislature to aid the state in, or to take charge of, some public or state work for the general welfare. For the purpose of these rules, this term refers to drinking water districts. ( )
- ~~115~~**60. Raw Water.** Raw water is any ground-water, spring water, or surface water utilized as source water prior to treatment for the purpose of producing potable water. (3-24-22)( )
- ~~116~~**61. Redundancy.** The installation of duplicate components or backup systems that are designed to maintain minimum pressure and capacity of the ~~system should~~ **PWS if** any component fails ~~or is~~ otherwise ~~be~~ out of service for maintenance or repair. (3-24-22)( )
- ~~117. Regulated Public Utility.~~ For the purpose of these rules, any public water system that falls under the jurisdiction of the Idaho Public Utilities Commission and is subject to the rules thereof. (3-24-22)
- ~~118~~**62. Reverse Osmosis (RO).** A membrane filtration process that removes dissolved constituents from water. Reverse osmosis is similar to nanofiltration but allows a lower percentage of certain ions to pass through the membrane. These systems typically operate under higher pressure than microfiltration and ultrafiltration. ( )
- ~~119. Repeat Compliance Period.~~ Any subsequent compliance period after the initial compliance period. (3-24-22)
- ~~120~~**63. Resolution.** As the term relates to membrane treatment, it is the size of the smallest integrity breach that contributes to a response from a direct integrity test when testing low pressure membranes. ( )
- ~~121. Responsible Charge (RC).~~ Responsible Charge means active, daily on site or on call responsibility for the performance of operations or active, on going, on site, or on call direction of employees and assistants. (3-24-22)
- ~~122. Responsible Charge Operator.~~ An operator of a public drinking water system, designated by the system owner, who holds a valid license at a class equal to or greater than the drinking water system classification, who is in responsible charge of the public drinking water system. (3-24-22)
- ~~123~~**64. Reviewing Authority.** For those projects requiring preconstruction approval by the Department, the Department is the reviewing authority. For those projects allowing for preconstruction approval by others, pursuant to Subsection 504.03.b. ~~of these rules~~, the qualified Idaho licensed professional engineer (QLPE) is also the reviewing authority. (3-24-22)( )
- ~~124~~**65. Sampling Point.** The location in a public water system from which a sample is drawn. ( )
- ~~125. Sanitary Defect.~~ A defect that could provide a pathway of entry for microbial contamination into the distribution system or that is indicative of a failure or imminent failure in a barrier that is already in place. Examples of sanitary defects include but are not limited to: cross connections, inadequate distribution system pressures, inadequate or missing sanitary seal, improperly screened storage tank vents, inadequate protection from contamination during flooding, history of treatment failures, deterioration of system components, and water main

~~leaks or breaks.~~ (3-24-22)

~~126. Sanitary Survey.~~ An onsite review of the water source, facilities, equipment, operation and maintenance of a public water system for the purpose of evaluating the adequacy of such source, facilities, equipment, operation and maintenance for producing and distributing safe drinking water. The sanitary survey will include, but is not limited to the following elements: (3-24-22)

- ~~a. Source;~~ (3-24-22)
- ~~b. Treatment;~~ (3-24-22)
- ~~c. Distribution system;~~ (3-24-22)
- ~~d. Finished water storage;~~ (3-24-22)
- ~~e. Pumps, pump facilities, and controls;~~ (3-24-22)
- ~~f. Monitoring and reporting and data verification;~~ (3-24-22)
- ~~g. System management and operation; and~~ (3-24-22)
- ~~h. Operator compliance with state requirements.~~ (3-24-22)

~~127. SDWIS State.~~ An acronym that stands for “Safe Drinking Water Information System State Version.” It is a software package developed under contract to the U.S. Environmental Protection Agency and used by a majority of U.S. states to collect, maintain, and report data about regulated public water systems. (3-24-22)

~~128. Seasonal System.~~ A noncommunity water system that is not operated as a public water system on a year round basis and starts up and shuts down at the beginning and end of each operating season. (3-24-22)

~~129~~**66. Sensitivity.** As the term relates to membrane treatment, it is the maximum log removal value (LRV) for a specific resolution that can be reliably verified by the direct integrity test associated with a given low pressure membrane filtration system. ( )

~~67. Service Connection.~~ Each structure, facility, or premises which is connected to a PWS water source, and which is or may be used for domestic purposes. ( )

~~130~~**68. Sewage.** ~~The w~~Water-carried human ~~or animal~~ wastes from residences, buildings, ~~and~~ industrial establishments ~~or and~~ other places, together with ~~such~~ ground-water infiltration and surface water as may be present. (3-24-22)( )

~~131~~**69. Significant Deficiency.** ~~As identified during a sanitary survey, a~~Any defect in a system’s ~~PWS’s~~ design, operation, maintenance, or administration, as well as any failure or malfunction of any system component, that the Department or its agent determines to cause, or have potential to cause, ~~risk to health or safety, or that could affect the reliable delivery of safe drinking water.~~ See also the definition of Health Hazards the introduction of contamination into the water delivered to consumers. (3-24-22)( )

~~132~~**70. Simple Water Main Extension.** New or replacement water main(s) that require plan and specification review by a qualified licensed professional engineer (QLPE) or by the Department per these rules and that is connected to existing water main facilities and does not require the addition of system components designed to control quantity or pressure, including, but not limited to, booster stations, new sources, pressure reducing valve stations, or reservoirs; and continues to provide the pressure and quantity requirements of Subsection 552.01. ( )

~~133. Special Irrigation District.~~ An irrigation district in existence prior to May 18, 1994 that provides primarily agricultural service through a piped water system with only incidental residential or similar use where the system or the residential or similar users of the system comply with the exclusion provisions in Section

~~1401(4)(B)(i)(II) or (III) of the Safe Drinking Water Act. (3-24-22)~~

**13471. Spring.** A source of water which flows from a laterally percolating water table's intersection with the surface or from a geological fault that allows the flow of water from an artesian aquifer. ( )

**13572. Standby Storage.** Standby storage provides a measure of reliability or safety factor ~~should if~~ sources fail or when unusual conditions impose higher than anticipated demands. See also the definition of Components of Finished Water Storage in these rules. (3-24-22)( )

**13673. Substantially Modified.** The Department ~~shall~~ considers a ~~public water system~~ PWS to be substantially modified when, as the result of one (1) or more ~~projects~~ material modifications to the PWS, there is a combined increase of twenty-five percent (25%) ~~or more above the system's existing configuration in any one or combination of the following:~~ in the population served or number of service connections, the total length of transmission and distribution water mains, the source capacity, and or the peak or average water demand for the PWS. Material modifications completed after July 1, 2007, are the only modifications counted towards the twenty-five (25%) increase. Like-kind replacement of components will not be counted toward a combined increase of twenty-five percent (25%) calculation. Removal of existing system components will not be used to reduce the combined increase of twenty-five percent (25%) calculation. (3-24-22)( )

**13774. Substitute Responsible Charge Operator.** An operator of a ~~public drinking water system~~ PWS who holds a valid license at a class equal to or greater than the drinking water system classification, designated by the ~~system~~ PWS owner to replace and to perform the duties of the responsible charge operator when the responsible charge operator is not available or accessible. (3-24-22)( )

**13875. Surface Water System.** A ~~public water system~~ PWS which is supplied by one (1) or more surface water sources or ground-water sources under the direct influence of surface water. Also called subpart H systems in applicable sections of 40 CFR Part 141. (3-24-22)( )

~~139. Total Organic Carbon (TOC). Total organic carbon in mg/l measured using heat, oxygen, ultraviolet irradiation, chemical oxidants, or combinations of these oxidants that convert organic carbon to carbon dioxide, rounded to two (2) significant figures. (3-24-22)~~

~~140. Total Trihalomethanes (TTHM). The sum of the concentration in milligrams per liter of the trihalomethane compounds (trichloromethane [chloroform], dibromochloromethane, bromodichloromethane and tribromomethane [bromoform]), rounded to two (2) significant figures. (3-24-22)~~

~~141. Transient Noncommunity Public Water System. A noncommunity water system which does not regularly serve at least twenty five (25) of the same persons over six (6) months per year. See also the definition of a Public Drinking Water System in these rules. (3-24-22)~~

**14276. Treatment Facility.** Any place(s) where a ~~public drinking water system or nontransient noncommunity water system~~ PWS alters the physical or chemical characteristics of the drinking water. Chlorination may be considered as a function of a distribution system. (3-24-22)( )

**14377. Turbidity.** A ~~m~~Measure of the interference of light passage through water, or visual depth restriction ~~due to from~~ the presence of suspended matter such as clay, silt, nonliving organic particulates, plankton, and other microscopic organisms. Operationally, turbidity measurements are expressions of certain light ~~scattering~~ and absorbing properties of a water sample. Turbidity is measured by the ~~N~~nephelometric method. (3-24-22)( )

**14478. Ultrafiltration (UF).** A low pressure membrane filtration process with pore diameter normally in the range of five thousandths to one tenth micrometer (0.005 to 0.1 µm). ( )

~~145. Ultraviolet (UV) Light Technology. A physical disinfection process that has proven effective against common pathogens in drinking water. (3-24-22)~~

**14679. UV Transmittance (UVT).** A measure of the fraction of incident light transmitted through a material (e.g., water sample or quartz). The UVT is usually reported for a wavelength of two hundred fifty-four (254)

nm and a pathlength of one (1) cm. It is often represented as a percentage. ( )

**14780. Unregulated Contaminant.** Any substance that may affect the quality of water but for which a maximum contaminant level or treatment technique has not been established. ( )

**14881. Use Assessment.** For the purpose of obtaining a waiver from certain monitoring requirements, a use assessment is an evaluation as to whether synthetic organic contaminants are being or have been used, manufactured, transported, stored, or disposed of in the watershed for surface water or the zone of influence for ground-water. (3-24-22)( )

**14982. Variance.** A temporary deferment of compliance with a maximum contaminant level or treatment technique requirement which may be granted only when the ~~system~~ **PWS** demonstrates to the satisfaction of the Department that the raw water characteristics prevent compliance with the MCL or requirement after installation of the best available technology or treatment technique and the deterrent does not cause an unreasonable risk to public health. (3-24-22)( )

~~150. Very Small Public Drinking Water System. A Community or Nontransient Noncommunity Public Water System that serves five hundred (500) persons or less and has no treatment other than disinfection or has only treatment which does not require any chemical treatment, process adjustment, backwashing or media regeneration by an operator (e.g. calcium carbonate filters, granular activated carbon filters, cartridge filters, ion exchangers).~~ (3-24-22)

**151.83 Volatile Organic Chemicals (VOCs).** VOCs are lightweight organic compounds that vaporize or evaporate easily. ( )

**15284. Vulnerability Assessment.** A determination of the risk of future contamination of a public drinking water supply. ( )

**15385. Waiver.** ( )

a. ~~For the purposes of these rules, e~~Except for Sections 500 through 552, “waiver” means the Department approval of a temporary reduction in sampling requirements for a particular contaminant. (3-24-22)( )

b. For purposes of Sections 500 through 552, “waiver” means ~~a~~ the dismissal or modification of any requirement of compliance. (3-24-22)( )

c. For the purposes of Section 010, “waiver” means the deferral of a fee assessment for ~~a public drinking water system~~ **PWS**. (3-24-22)( )

**154.86 Wastewater.** ~~Any e~~Combination of liquid or water and pollutants from activities and processes occurring in dwellings, commercial buildings, industrial plants, institutions and other establishments, together with any ground-water, surface water, and storm water that may be present; liquid or water that is chemically, biologically, physically or rationally identifiable as containing blackwater, gray water or commercial or industrial pollutants; and sewage. ~~See IDAPA 58.01.16, “Wastewater Rules,” for additional information.~~ (3-24-22)( )

**155. Water for Human Consumption.** ~~Water that is used by humans for drinking, bathing for purposes of personal hygiene (including hand washing), showering, cooking, dishwashing, and maintaining oral hygiene. In common usage, the terms “culinary water,” “drinking water,” and “potable water” are frequently used as synonyms.~~ (3-24-22)

**15687. Water Demand.** The volume of water requested by ~~system~~ **PWS** users to satisfy their needs. Water demand can be further categorized as: (3-24-22)( )

a. Average day demand. ~~T is t~~he volume of water used by a ~~system~~ **PWS** on an average day based on a one (1) year period. (3-24-22)( )

b. Maximum day demand. ~~It is~~ the average rate of consumption for the twenty-four (24) hour period in which total consumption is the largest for the design year. (3-24-22)( )

c. Peak hour demand. ~~It is~~ the highest hourly flow, excluding fire flow, that a ~~water system~~ PWS or distribution system pressure zone is likely to experience in the design year. (3-24-22)( )

~~157~~88. **Water Main.** A pipe within a ~~public water system~~ PWS which is under the control of the ~~system~~ PWS operator and conveys water to two (2) or more service connections or conveys water to a fire hydrant. The collection of water mains within a given water supply is called the distribution system. (3-24-22)( )

~~158.~~ **Watershed.** ~~The land area from which water flows into a stream or other body of water which drains the area.~~ (3-24-22)

~~159.~~ **Wholesale System.** ~~A public water system that treats source water as necessary to produce finished water and then delivers some or all of that finished water to another public water system. Delivery may be through a direct connection or through the distribution system of one (1) or more consecutive systems.~~ (3-24-22)

004. **COVERAGE.**  
40 CFR 141.3 is herein incorporated by reference. (3-24-22)

0054. **GENERAL PROVISIONS FOR WAIVERS, VARIANCES, AND EXEMPTIONS.**  
40 CFR 141.4 is ~~herein~~ incorporated by reference. (3-24-22)( )

01. **Monitoring Waivers.** ~~40 CFR 141.23(b), 141.23(c), 141.24(f), 141.24(h) are incorporated by reference.~~ ( )

a. ~~Waivers from sampling requirements in Subsections 100.03, 100.04, 200.01, and 503.03.e.v. may be available to all PWSs for all contaminants except nitrate, nitrite, and disinfection byproducts and are based upon a vulnerability assessment, use assessment, the analytical results of previous sampling, or some combination of vulnerability assessment, use assessment, and analytical results.~~ ( )

b. ~~If a PWS elects to request a waiver from monitoring, it must do so in writing at least sixty (60) days prior to the required monitoring deadline date.~~ ( )

c. ~~Waiver determinations are to be made by the Department on a contaminant specific basis and must be in writing.~~ ( )

d. ~~PWSs which do not receive waivers must sample at the required, monitoring frequencies~~ ( )

02. **Facility, Design Standard, and Operating Criteria Waivers.** (3-24-22)

~~†~~ The Department may waive any requirement of Sections 500 through 552 that is not explicitly imposed by Idaho Statute, if it can be shown to the ~~Department's~~ satisfaction ~~of the Department~~ that the requirement is not necessary for the protection of public health, protection from contamination, and satisfactory operation and maintenance of a ~~public water system~~ PWS. (3-24-22)( )

b. ~~The Department may at its discretion waive the requirements outlined in Section 010.~~ (3-24-22)

e. ~~Waiver of monitoring requirements is addressed in Subsection 100.07.~~ (3-24-22)

023. **Variances.** ( )

a. **General Variances.** A general variance may be granted by the Department if a ~~public water system~~ PWS owner submits ~~an application~~ a written request and demonstrates to the satisfaction of the Department that the following minimum requirements ~~as required by~~ of 42 USC Section 1415(a) (The Safe Drinking Water Act SDWA) are met. ~~These include but are not limited to:~~ (3-24-22)( )

- ~~i. The system has installed the best available technology, treatment techniques, or other means to comply with the maximum contaminant level; and (3-24-22)~~
- ~~ii. Alternative sources of water are not reasonably available to the system. (3-24-22)~~
- ~~iii. For provisions of a national primary drinking water regulation which requires the use of a specific treatment technique with respect to a contaminant, the system must demonstrate that the technique is not necessary to protect the health of the system's customers. (3-24-22)~~
- ~~b. **Small System Variances.** A small system variance for a maximum contaminant level or treatment technique may be granted by the Department if a public water system PWS owner submits an application a written request and demonstrates to the satisfaction of the Department that the following minimum requirements as required by of 42 USC Section 1415(e) (SDWA) are met. These include, but are not limited to: (3-24-22)(    )~~
  - ~~i. The system serves three thousand three hundred (3,300) or fewer persons; (3-24-22)~~
  - ~~ii. If the system serves more than three thousand three hundred (3,300) persons but fewer than ten thousand (10,000) persons, the application shall be approved by the U.S. Environmental Protection Agency; (3-24-22)~~
  - ~~iii. The U.S. Environmental Protection Agency has identified a variance technology that is applicable to the size and source water quality conditions of the public water system; (3-24-22)~~
  - ~~iv. The system installs, operates and maintains such treatment technology, treatment technique, or other means; and (3-24-22)~~
  - ~~v. The system cannot afford to comply with a national primary drinking water regulation in accordance with affordability criteria established by the Department, including compliance through treatment, alternative source of water supply, restructuring or consolidation. (3-24-22)~~

~~**034. Exemptions.** An exemption may be granted by the Department if a public water system PWS owner submits an application a written request and demonstrates to the satisfaction of the Department that the following minimum requirements as required by of 42 USC Section 1416(a) (SDWA) are met. These include but are not limited to: (3-24-22)(    )~~

- ~~**a.** The system is unable to comply with a maximum contaminant level or treatment technique due to compelling factors, which may include economic factors; (3-24-22)~~
- ~~**b.** The system was in operation by the effective date of such contaminant level or treatment technique and no reasonable source of water is available to the system; or (3-24-22)~~
- ~~**c.** If the system was not in operation by the effective date of such contaminant level or treatment technique, then no reasonable alternative source of water is available to the system; and (3-24-22)~~
- ~~**d.** The granting of an exemption will not result in an unreasonable risk to health; (3-24-22)~~
- ~~**e.** Management or restructuring changes cannot reasonably be made to comply with the contaminant level or treatment technique to improve the quality of the drinking water; (3-24-22)~~
- ~~**f.** The system cannot meet the standard without capital improvements which cannot be completed prior to the date established pursuant to 42 USC Section 1412b(10); (3-24-22)~~
- ~~**g.** If the system needs financial assistance, the system has entered into an agreement to obtain such financial assistance; or (3-24-22)~~
- ~~**h.** The system has entered into an enforceable agreement to become a part of a regional public water~~



~~system and is taking all practical steps to meet the standard. (3-24-22)~~

**04.5. Conditions.** A waiver, exemption, or variance may be granted upon any conditions that the Department, ~~in its discretion,~~ determines are appropriate and in accordance with these rules. Failure by the ~~public water system~~ PWS owner to comply with any condition voids the waiver, variance, or exemption. (3-24-22)(    )

**05.6 Public Hearing.** The Department ~~shall~~ will provide public notice and an opportunity for public hearing in the area served by the ~~public water system~~ PWS before any exemption or variance under Section 005 is granted by the Department. At the conclusion of the hearing, the Department ~~shall~~ will record the findings and issue a decision approving, denying, modifying, or conditioning the ~~application request~~. (3-24-22)(    )

~~06. Exceptions. Any person aggrieved by the Department's decision on a request for a waiver, variance or exemption may file a petition for a contested case with the Board. Such petitions shall be filed with the Board, as prescribed in, IDAPA 58.01.23, "Contested Case Rules and Rules for Protection and Disclosure of Records."~~  
- (3-24-22)

~~07. Surface Water Variances. Variances from the requirements of Sections 300 through 303 are not allowed. (3-24-22)~~

~~08. Surface Water Exemptions. Exemptions from 40 CFR 141.72(a)(3) and 40 CFR 141.72(b)(2) are not allowed. (3-24-22)~~

~~006. SITING REQUIREMENTS. 40 CFR 141.5 is herein incorporated by reference. (3-24-22)~~

**007. DISAPPROVAL DESIGNATION.**  
The Department ~~or its agent~~ may assign a disapproved designation to a ~~public water system~~ PWS when: (3-24-22)(    )

**01. Defects.** There are design or construction defects, ~~or some combination of design and construction defects~~ significant deficiencies, or health hazards; or (3-24-22)(    )

**02. Operating Procedures.** Operating procedures constitute a health hazard; ~~or~~ (3-24-22)(    )

**03. Quality.** ~~Physical,~~ Violations of chemical, microbiological, or radiological ~~quality does not meet the requirements~~ maximum contaminant levels or action levels of these rules; ~~or~~ (3-24-22)(    )

**04. Monitoring.** ~~The required~~ Violations of monitoring requirements as specified in these rules ~~has not been conducted; or~~ (3-24-22)(    )

**05. Unapproved Source.** An unapproved source of drinking water is used or the ~~system~~ PWS is interconnected with a disapproved water system. ~~;~~ or (3-24-22)(    )

**06. Non-Payment of Annual Fee Assessment.** The annual drinking water system fee assessment is not paid as set forth in Section 010. ( )

~~07. Public Notification. The Department may require the owner of a water system that has been given a disapproval designation to notify the public. The manner, content, and timing of this notification will be determined by the Department. This requirement is in addition to any public notification requirements set forth in Section 150 that may also apply to the disapproved system. (3-24-22)~~

**008. HEALTH HAZARDS.**

**01. Prohibited.** No PWS will: (3-24-22)(    )

**a.** ~~No public water system, or portion of a public water system, shall c~~onstitute a health hazard, as determined by the Department and defined in Section 003 of these rules. (3-24-22)(    )

b. ~~No public water system, or portion of a public water system, shall create a condition which prevents, or may prevent, the detection of a health hazard, as determined by the Department.~~ (3-24-22)( )

02. **Schedule.** Health hazards and conditions which prevent, or may prevent, the detection of a health hazard must be mitigated as required by the Department, and terminated within a time schedule established by the Department. (3-24-22)( )

03. **Standards.** ~~Design and construction revisions necessary to correct a health hazard or conditions which prevent, or may prevent, the detection of a health hazard, must be reviewed and approved by the Department, and comply with Sections 501 through 552, unless otherwise specified by the Department.~~ (3-24-22)

**009. MONITORING.**

~~The Department may, in its discretion, alter the monitoring or sampling requirements for any contaminant otherwise specified in these rules if the Department determines that such alteration is necessary to adequately assess the level of such contamination.~~ (3-24-22)

**0409. FEE SCHEDULE FOR PUBLIC DRINKING WATER SYSTEMS.**

All ~~owners of regulated public drinking water systems shall~~ PWSs must pay an annual drinking water system fee. The fee ~~shall will~~ be assessed ~~to regulated public drinking water systems~~ as provided in this section. The Department may waive the requirements of this section at its discretion. (3-24-22)( )

01. **Effective Date.** Annual fees ~~shall will~~ be paid for each fee year. Fee years beginning on October 1, 1993, and continuing for each succeeding year of each calendar year. (3-24-22)( )

02. **Fee Schedule.** (3-24-22)

a. ~~Owners of community and non-transient non-community public drinking water systems~~ PWSs ~~must~~ shall pay an annual fee according to the following fee schedule:

Number of Connections	Fee
1 to 20	\$100
21 to 184	\$5 per connection, not to exceed a total of \$735 per <del>system</del> <u>PWS</u>
185 to 3,663	\$4 per connection, not to exceed a total of \$10,988 per <del>system</del> <u>PWS</u>
3,664 or more	\$3 per connection

(3-24-22)( )

b. The annual fee for transient ~~public drinking water systems~~ PWSs is twenty-five dollars (\$25). (3-24-22)( )

c. New ~~public drinking water systems~~ PWSs formed after October 1 will not pay a fee until the following October. (3-24-22)( )

03. **Fee Assessment.** ( )

a. An annual fee assessment will be generated for each community and non-transient non-community ~~public drinking water system listed in the Department's Safe Drinking Water Information System (SDWIS)~~ PWS using the number of connections the Department has on record. (3-24-22)( )

b. Community and non-transient non-community ~~public drinking water systems~~ PWSs will be notified each year of the official number of connections listed in SDWIS. ~~Systems~~ PWSs will have at least one (1)

month to notify the Department if the number of connections ~~listed in SDWIS is~~ provided are not in agreement with the ~~system's PWS's~~ records. (3-24-22)( )

~~e.~~ The ~~official number of connections listed in SDWIS following each yearly update, as required in Subsection 010.03.b., will be used to calculate the annual fee for community and nontransient noncommunity public drinking water systems for the next fee year of October 1 through September 30.~~ (3-24-22)

**04. Billing.** An annual fee ~~shall~~ statement will be assessed and a statement will be mailed or delivered electronically to all ~~community, nontransient noncommunity, and transient public drinking water systems listed in SDWIS by PWS owners on record with~~ the Department ~~on or before~~ by September 1 of each year and will include acceptable payment methods. (3-24-22)( )

**05. Payment.** ( )

**a.** ~~Payment of the annual fee shall~~ Annual fee payment will be due on October 1, unless it is a Saturday, a Sunday, or a legal holiday, in which event the payment ~~shall~~ will be due on the successive business day. ~~Fees paid by check or money order shall be made payable to the Idaho Department of Environmental Quality and sent to 1410 North Hilton Street, Boise, ID 83706-1255.~~ (3-24-22)( )

**b.** If a ~~public water system~~ PWS consists of two hundred fifty (250) connections or more, the ~~system~~ PWS may request to divide its annual fee payment into equal monthly or quarterly installments by submitting a request to the Department ~~on the proper request form provided with the initial billing statement.~~ (3-24-22)( )

**ei.** The Department will notify ~~applicable systems, in writing,~~ PWSs of approval or denial of a requested monthly or quarterly installment plan within ten (10) business days of ~~the Department~~ receiving ~~such a the~~ request. (3-24-22)( )

**eii.** If a ~~public water system~~ PWS has been approved to pay monthly installments then each installment ~~shall~~ will be due by the first day of each month, unless it is a Saturday, a Sunday, or a legal holiday, in which event the installment ~~shall~~ will be due on the successive business day. (3-24-22)( )

**eiii.** If a ~~public water system~~ PWS has been approved to pay quarterly installments then each installment ~~shall~~ will be due by the first day of the month of each quarter (October 1, January 1, April 1, and July 1), unless it is a Saturday, a Sunday, or a legal holiday, in which event the installment ~~shall~~ will be due on the ~~first~~ successive business day. (3-24-22)( )

**06. Delinquent Unpaid Fees.** A ~~public water system~~ PWS owner will be delinquent in payment if its annual fee assessment has not been received by ~~the Department by~~ November 1; or if having ~~first~~ opted to pay monthly or quarterly installments, its monthly or quarterly installment has not been received ~~by the Department~~ by the last day of the month in which the monthly or quarterly payment is due. (3-24-22)( )

**07. Suspension of Services and Disapproval Designation.** ( )

**a.** For any ~~system~~ PWS owner delinquent in payment of fee assessed under Subsections 010.02 ~~and 010.06~~, in excess of ninety (90) days, technical ~~services~~ assistance provided by the Department may be suspended except for ~~the following~~ review and processing of: (3-24-22)( )

i. ~~Issuance of m~~ Monitoring waivers; (3-24-22)( )

ii. ~~Review and processing of e~~ Engineering reports; and (3-24-22)( )

iii. ~~Review of p~~ Plans and specifications for design and construction as set forth in Sections ~~501, 500~~ through 552. (3-24-22)( )

**b.** For any ~~system~~ PWS owner delinquent in payment of fee assessed under Subsections 010.02 ~~and 010.06~~, in excess of one hundred and eighty (180) days, the Department may disapprove the PWS pursuant to Subsection 007.06 and may suspend all technical ~~services~~ assistance provided ~~by the Department~~ including ~~any of the~~

~~following review and processing of:~~ (3-24-22)(\_\_\_\_)

- ~~i. Review and processing of eEngineering reports;~~ (3-24-22)(\_\_\_\_)
- ~~ii. Review of pPlans and specifications for design and construction as set forth in Sections ~~501, 500~~ through 552; or~~ (3-24-22)(\_\_\_\_)
- ~~iii. Renewal of mMonitoring waivers; or~~ (3-24-22)
- ~~iv. Granting of new monitoring waivers.~~ (3-24-22)
- ~~e. For any system delinquent in payment of fee assessed under Subsections 010.02 and 010.06, in excess of one hundred and eighty (180) days, the Department may disapprove the public water system pursuant to Subsection 007.06.~~ (3-24-22)

**08. Reinstatement of Suspended Services and Approval Status.** For any ~~public water system~~ PWS owner for which ~~delinquency of fee payment, pursuant to Subsection 010.07, has resulted in the suspension of technical services assistance, the disapproval of a public water system, or both~~ has occurred, continuation reinstatement of technical services assistance, reinstatement of public water system approval, or both, will occur upon payment of delinquent annual fee assessments. (3-24-22)(\_\_\_\_)

~~**09. Enforcement Action.** Nothing in Section 010 waives the Department's right to undertake an enforcement action at any time, including seeking penalties, as provided in Section 39-108, Idaho Code.~~ (3-24-22)

~~**10.09 Responsibility to Comply.** Subsection 010.07 shall in no way relieve~~ any system PWS from its obligation to comply with all applicable state and federal drinking water statutes, rules, regulations, or orders these rules. (3-24-22)(\_\_\_\_)

**011. CONTINUITY OF SERVICE.**

**01. Transfer of Ownership.** No owner ~~shall may~~ transfer ~~system~~ PWS ownership without providing written notice to the Department and all customers. Notification ~~shall must~~ include a schedule for transferring responsibilities and identification of the new owner. (3-24-22)(\_\_\_\_)

**02. Maintenance of Standards.** The ~~system~~ current PWS owner transferring ownership ~~shall must~~ ensure that all ~~health related standards~~ these rules are met during transfer and ~~shall will~~ ensure that water rights, operation and maintenance manuals, and all other pertinent rights and documentation ~~is are~~ transferred to the new owner. (3-24-22)(\_\_\_\_)

~~**012. WRITTEN INTERPRETATIONS.**~~

~~The Department of Environmental Quality may have written statements in the form of guidance and policy documents that pertain to the interpretation of the rules of this chapter. Such written statements may be inspected and copies obtained at the Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706-1255.~~

(3-24-22)

~~**013. USE OF GUIDANCE.**~~

~~Guidance documents referenced in these rules are to be used to assist both designers and reviewers in determining a reasonable way to achieve compliance with the rules. Nothing in these rules makes the use of a particular guidance or guidance document mandatory. If the plans and specifications comply with applicable facility and design standards as set out in these rules, Section 39-118, Idaho Code, requires that the Department not substitute its judgment for that of the design engineer concerning the manner of compliance. If the design engineer needs assistance as to how to comply with a particular rule, the design engineer may use the referenced guidance documents for that assistance. However, the design engineer may also use other guidance or provide documentation to substantiate his or her own professional judgment.~~

(3-24-22)

~~**014.12. ADMINISTRATIVE PROVISIONS.**~~

~~Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23,~~

“Contested Case Rules and Rules for Protection and Disclosure of Records.” ( )

**013~~15~~. CONFIDENTIALITY OF RECORDS.**

Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 1, Title 74, Idaho Code. Information submitted under a trade secret claim may be entitled to confidential treatment by the Department as provided in Section 74-114~~107~~, Idaho Code, and IDAPA 58.01.21, “Rules Governing the Protection and Disclosure of Records in the Possession of the Department of Environmental Quality.” and IDAPA 58.01.23, “Contested Case Rules and Rules for Protection and Disclosure of Records.” (3-24-22)( )

**016. OFFICE HOURS — MAILING ADDRESS AND STREET ADDRESS.**

The state office of the Department of Environmental Quality and the office of the Board of Environmental Quality are located at 1410 N. Hilton, Boise, Idaho 83706-1255, telephone number (208) 373-0502. The office hours are 8 a.m. to 5 p.m. Monday through Friday. (3-24-22)

**017~~14~~. -- 049. (RESERVED)**

**050. MAXIMUM CONTAMINANT LEVELS AND MAXIMUM RESIDUAL DISINFECTANT LEVELS.**

**01. Maximum Contaminant Levels for Inorganic Contaminants. (3-24-22)**

~~a.~~ 40 CFR 141.11 ~~is herein~~ and 141.62 are incorporated by reference. (3-24-22)( )

~~b.~~ 40 CFR 141.62 is herein incorporated by reference. (3-24-22)

~~c.~~ The maximum contaminant level for cyanide is two tenths milligram per liter (0.2 mg/l). (3-24-22)

**02. Maximum Contaminant Levels for Organic Contaminants.** 40 CFR 141.61 is ~~herein~~ incorporated by reference, ~~except that the best available technology (BAT) treatment listed in 40 CFR 141.61(b) shall be changed to reflect that packed tower aeration will not be listed for toxaphene but will be listed for toluene.~~ (3-24-22)( )

**03. Maximum Contaminant Levels for Turbidity.** 40 CFR 141.13 is ~~herein~~ incorporated by reference. (3-24-22)( )

**04. Maximum Contaminant Levels for Radionuclides.** 40 CFR 141.66 is ~~herein~~ incorporated by reference. (3-24-22)( )

**05. Maximum Contaminant Levels for Microbiological Contaminants.** 40 CFR 141.63 is ~~herein~~ incorporated by reference. (3-24-22)( )

**06. Maximum Contaminant Levels for Disinfection Byproducts.** 40 CFR 141.64 is ~~herein~~ incorporated by reference. (3-24-22)( )

**07. Maximum Residual Disinfectant Levels.** 40 CFR 141.65 is ~~herein~~ incorporated by reference. (3-24-22)( )

~~08. Effective Dates.~~ Effective date information provided in 40 CFR 141.6 and 40 CFR 141.60 is applicable. (3-24-22)

**051. -- 099. (RESERVED)**

**100. MONITORING AND ANALYTICAL REQUIREMENTS.**

40 CFR Part 141, Subpart C, is incorporated by reference. (3-24-22)( )

**01. Total Coliform Sampling and Analytical Requirements.** The Total Coliform Rule, 40 CFR 141.21, is ~~herein~~ incorporated by reference. The Revised Total Coliform Rule, 40 CFR Part 141, Subpart Y, is ~~herein~~

incorporated by reference, excluding the annual monitoring provisions in 40 CFR 141.854 (a)(4), (d), (e), (f) and (h). (3-24-22)(    )

~~a. Routine monitoring requirements for public water systems serving more than one thousand (1,000) people. 40 CFR 141.857 is herein incorporated by reference. (3-24-22)~~

~~b. Routine monitoring requirements for community water systems serving one thousand (1,000) or fewer people using only ground water. 40 CFR 141.855 is herein incorporated by reference. (3-24-22)~~

~~c. Routine monitoring requirements for subpart H public water system serving one thousand (1,000) or fewer people. 40 CFR 141.856 is herein incorporated by reference. (3-24-22)~~

~~d. Routine monitoring requirements for non-community water system serving one thousand (1,000) or fewer people using only ground water. 40 CFR 141.854 is herein incorporated by reference, excluding the annual monitoring provisions in 40 CFR 141.854 (a)(4), (d), (e), (f), and (h). (3-24-22)~~

**02. Turbidity Sampling and Analytical Requirements.** 40 CFR 141.22 is ~~herein~~ incorporated by reference. (3-24-22)(    )

**03. Inorganic Chemical Sampling and Analytical Requirements.** 40 CFR 141.23 is ~~herein~~ incorporated by reference. (3-24-22)(    )

**04. Organic Chemicals, Sampling and Analytical Requirements.** 40 CFR 141.24 is ~~herein~~ incorporated by reference. (3-24-22)(    )

**05. Analytical Methods for Radioactivity.** 40 CFR 141.25 is ~~herein~~ incorporated by reference. (3-24-22)(    )

**06. Monitoring Frequency and Compliance Requirements for Radioactivity in Community Water Systems.** 40CFR 141.26 is ~~herein~~ incorporated by reference. (3-24-22)(    )

~~**07. Monitoring Waivers.** 40 CFR 141.23(b), 141.23(e), 141.24(f), 141.24(h) are herein incorporated by reference. (3-24-22)~~

~~a. Waivers from sampling requirements in Subsections 100.03, 100.04, 200.01, and 503.03 e.v. may be available to all systems for all contaminants except nitrate, nitrite, and disinfection byproducts and are based upon a vulnerability assessment, use assessment, the analytical results of previous sampling, or some combination of vulnerability assessment, use assessment, and analytical results. (3-24-22)~~

~~b. There are two (2) general types of monitoring waivers: (3-24-22)~~

~~i. Waivers based exclusively upon previous analytical data (3-24-22)~~

~~ii. Waivers based on a use or vulnerability assessment. (3-24-22)~~

~~c. Waivers are to be made by the Department on a contaminant specific basis and must be in writing. (3-24-22)~~

~~d. Vulnerability assessments may be conducted by the Department, the water system, or a third party organization. The Department shall approve or disapprove all vulnerability assessments in writing. (3-24-22)~~

~~e. Water systems which do not receive waivers shall sample at the required initial and repeat monitoring frequencies. (3-24-22)~~

~~f. If a system elects to request a waiver from monitoring, it shall do so in writing at least sixty (60) days prior to the required monitoring deadline date. (3-24-22)~~

~~08.~~ **Initial Monitoring Schedule.** In addition to the requirements specified in 40 CFR 141.23, 40 CFR 141.24, and 40 CFR 141.40, initial monitoring must be completed according to the following schedule unless otherwise specified by the Department: (3-24-22)

~~a.~~ Public water systems serving more than one hundred (100) people must conduct initial monitoring before January 1, 1995 except that: (3-24-22)

~~i.~~ Initial monitoring for nitrate and nitrite must be completed before January 1, 1994 for all surface water sources serving transient noncommunity public water systems and for all ground water sources serving any public water system. (3-24-22)

~~ii.~~ Initial monitoring for nitrate and nitrite must be completed before April 1, 1993 for all surface water sources serving community or nontransient noncommunity public water systems. (3-24-22)

~~iii.~~ Initial monitoring required under 40 CFR 141.23(e) must be completed before January 1, 1994 for all surface water sources serving community or nontransient noncommunity public water systems. (3-24-22)

~~b.~~ Public water systems serving one hundred (100) or less people must conduct initial monitoring before January 1, 1996 except that: (3-24-22)

~~i.~~ Initial monitoring for nitrate and nitrite must be completed before January 1, 1994 for all surface water sources serving transient noncommunity public water systems and for all ground water sources serving a public water system. (3-24-22)

~~ii.~~ Initial monitoring for nitrate and nitrite must be completed before April 1, 1993 for all surface water sources serving community or nontransient noncommunity public water systems. (3-24-22)

~~iii.~~ Initial monitoring required under 40 CFR 141.23(e) must be completed before January 1, 1994 for all surface water sources serving community or nontransient noncommunity public water systems. (3-24-22)

~~09.~~ **Alternate Analytical Techniques.** 40 CFR 141.27 is ~~herein~~ incorporated by reference. (3-24-22)( )

~~10.~~ **Approved Laboratories.** 40 CFR 141.28 and ~~40 CFR~~ 141.852(b) are ~~herein~~ incorporated by reference. All analyses conducted pursuant to these rules, except those listed below, ~~shall~~ must be performed in laboratories certified or granted reciprocity by the Idaho Department of Health and Welfare, Bureau of Laboratories, as provided in IDAPA 16.02.13, "Rules Governing Certification of Idaho Water Quality Laboratories." The following analyses may be performed by any person acceptable to the Department ~~of Environmental Quality~~: (3-24-22)( )

- a. pH; ( )
- b. Turbidity (Nephelometric method only); ( )
- c. Daily analysis for fluoride; ( )
- d. Temperature; ( )
- e. Disinfectant residuals, except ozone, ~~which shall~~ will be analyzed using the Indigo Method or an acceptable automated method pursuant to Subsection 300.05.d.; (3-24-22)( )
- f. Alkalinity; ( )
- g. Calcium; ( )
- h. Conductivity; ( )

- i. Silica; and ( )
- j. Orthophosphate. ( )
11. **Monitoring of Consecutive Water Systems.** 40 CFR 141.29 is ~~herein~~ incorporated by reference. (3-24-22)( )
12. **Disinfection Residuals, Disinfection Byproducts, and Disinfection Byproduct Precursors.** 40 CFR Part 141, Subpart L, is ~~herein~~ incorporated by reference. (3-24-22)( )
13. **Monitoring.** The department may alter the monitoring requirements specified in these rules if the department determines that such alteration is necessary to adequately assess the level of contamination. ( )
14. **Special Monitoring for Sodium.** 40 CFR 141.41 is incorporated by reference. ( )
15. **Special Monitoring for Corrosivity Characteristics.** 40 CFR 141.42 is incorporated by reference. ( )
101. -- 149. (RESERVED)
150. **REPORTING, PUBLIC NOTIFICATION, RECORDKEEPING.**
01. **Reporting Requirements.** 40 CFR 141.31 is ~~herein~~ incorporated by reference. (3-24-22)( )
02. **Public Notification of Drinking Water Violations.** 40 CFR Part 141, Subpart Q is ~~herein~~ incorporated by reference. (3-24-22)( )
03. **Record Maintenance.** 40 CFR 141.33 is ~~herein~~ incorporated by reference. (3-24-22)( )
04. **Reporting for Unregulated Contaminant Monitoring Results.** 40 CFR 141.35 is ~~herein~~ incorporated by reference. (3-24-22)( )
05. **Reporting and Record Keeping Requirements for the Interim Enhanced Surface Water Treatment Rule.** 40 CFR 141.175 is ~~herein~~ incorporated by reference. (3-24-22)( )
06. **Reporting and Record Keeping Requirements for the Disinfectants and Disinfectant Byproducts Rule.** 40 CFR 141.134 is ~~herein~~ incorporated by reference. (3-24-22)( )
07. **Reporting and Record Keeping Requirements for the Revised Total Coliform Rule.** 40 CFR 141.861 is ~~herein~~ incorporated by reference. (3-24-22)( )
08. **Public Notification.** The Department may require the owner of a PWS that has been disapproved to notify the public. The manner, content, and timing of this notification will be determined by the Department. This is in addition to any provisions set forth in Section 150 that may also apply. ( )
09. **Public Notification for Low System Pressure.** ( )
- a. During unplanned or emergency situations, when water pressure within the system is known to have fallen below twenty (20) psi, the water supplier must notify the Department, provide public notice to the affected customers within twenty-four (24) hours, and disinfect or flush the system as appropriate. When sampling and corrective procedures have been conducted and after determination by the Department that the water is safe, the water supplier may re-notify the affected customers that the water is safe for consumption. The water supplier must notify the affected customers if the water is not safe for consumption. ( )
- b. During planned maintenance or repair situations, when water pressure within the system is expected to fall below twenty (20) psi, the water supplier must provide public notice to the affected customers prior to the planned maintenance or repair activity and ensure that the water is safe for consumption. ( )



**151. CONSUMER CONFIDENCE REPORTS.** 40 CFR Part 141, Subpart O is ~~herein~~ incorporated by reference. (3-24-22)(    )

**152. -- 199~~249~~.** (RESERVED) (3-24-22)(    )

**200. SPECIAL REGULATIONS.**

~~01. Monitoring Requirements for Unregulated Contaminants.~~ 40 CFR 141.40 is ~~herein~~ incorporated by reference. (3-24-22)

~~02. Special Monitoring for Sodium.~~ 40 CFR 141.41 is herein incorporated by reference. (3-24-22)

~~03. Special Monitoring for Corrosively Characteristics.~~ 40 CFR 141.42 is herein incorporated by reference. (3-24-22)

~~04. Prohibition on Use of Lead Pipes, Solder, and Flux.~~ 40 CFR 141.43 is herein incorporated by reference. (3-24-22)

~~201. -- 249.~~ (RESERVED)

**250. MAXIMUM CONTAMINANT LEVEL GOALS AND MAXIMUM RESIDUAL DISINFECTION LEVEL GOALS.**

**01. Maximum Contaminant Level Goals for Organic Contaminants.** 40 CFR 141.50 is ~~herein~~ incorporated by reference. (3-24-22)(    )

**02. Maximum Contaminant Level Goals for Inorganic Contaminants.** 40 CFR 141.51 is ~~herein~~ incorporated by reference. (3-24-22)(    )

**03. Maximum Contaminant Level Goals for Microbiological Contaminants.** 40 CFR 141.52 is ~~herein~~ incorporated by reference. (3-24-22)(    )

**04. Maximum Contaminant Level Goals for Disinfection Byproducts.** 40 CFR 141.53 is ~~herein~~ incorporated by reference. (3-24-22)(    )

**05. Maximum Residual Disinfectant Level Goals for Disinfectants.** 40 CFR 141.54 is ~~herein~~ incorporated by reference. (3-24-22)(    )

**06. Maximum Contaminant Level Goals for Radionuclides.** 40 CFR 141.55 is ~~herein~~ incorporated by reference. (3-24-22)(    )

**251. -- 299.** (RESERVED)

**300. FILTRATION AND DISINFECTION.**

**01. General Requirements.** 40 CFR 141.70 is ~~herein~~ incorporated by reference. ~~Each public water system using a surface water source or ground water source directly influenced by surface water shall be operated by personnel, as specified in Sections 553 and 554, who have met state requirements for licensing of water system operators.~~ (3-24-22)(    )

**02. Filtration.** 40 CFR 141.73 is ~~herein~~ incorporated by reference. (3-24-22)(    )

~~a. Each system which provides filtration treatment shall submit engineering evaluations, other documentation, or some combination of engineering evaluations and other documentation as required by the Department to demonstrate ongoing compliance with these rules.~~ (3-24-22)

**ba.** The Department will establish filtration removal credit on a system-by-system basis. Unless otherwise ~~demonstrated to the satisfaction of~~ **allowed** the Department, the maximum log removal credit allowed for filtration is as follows:

Maximum Log Removal			
Filtration Type	Giardia lamblia	Viruses	Cryptosporidium
Conventional	2.5	2.0	2.5
Direct	2.0	1.0	2.0
Slow sand	2.0	2.0	2.0
Diatomaceous earth	2.0	1.0	2.0
Microfiltration	3.0	0.5	3.0
Ultrafiltration	3.5	2.0	3.5
Nanofiltration	4.0	3.0	4.0
Reverse Osmosis	4.0	3.0	4.0
Alternate technology	2.0	0	2.0

(3-24-22)( )

- eb.** Filtration removal credit ~~shall~~ **will** be granted for filtration treatment provided the ~~system~~ **PWS** is: (3-24-22)( )
- i. Operated in accordance with the Operations Plan specified in Subsection 552.03.a.; and ( )
  - ii. The ~~system~~ **PWS** is in compliance with the turbidity performance criteria specified under 40 CFR 141.73; and (3-24-22)( )
  - iii. Coagulant chemicals must be added and coagulation and flocculation unit process must be used at all times during which conventional and direct filtration treatment plants are in operation; and ( )
  - iv. Slow sand filters are operated at rates not to exceed one-tenth (0.1) gallons per minute per square foot or as approved by the Department; and ( )
  - v. Diatomaceous earth filters are operated at a rate not to exceed one point five (1.5) gallons per minute per square foot. ( )

**03. Criteria for Avoiding Filtration.** 40 CFR 141.71 is ~~herein~~ incorporated by reference. (3-24-22)( )

**04. Disinfection.** 40 CFR 141.72 is ~~herein~~ incorporated by reference. (3-24-22)( )

**a.** ~~In addition to the disinfection requirements in 40 CFR 141.72, each system with a s~~Surface water sources or ground-water sources directly influenced by surface water ~~shall~~ **must** maintain a minimum of at least two-tenths (0.2) ~~parts per million of chlorine~~ **mg/l disinfectant residual** in the treated water after ~~an effective contact time of at least thirty (30) minutes at peak hour demand before delivery to the first customer. Effective contact time is either demonstrated or calculated.~~ (3-24-22)( )

**i.** ~~Demonstrated effective contact time is generally determined by tracer studies on a completed contact basin. Prior to conducting a tracer study, a testing plan shall be submitted to the Department for review and approval. The tracer chemical shall not be reactive with anything in the water or be consumed in the process.~~ (3-24-22)

~~ii. Calculated effective contact time for tank type contact basins is based on tank baffling and inlet/outlet configurations for the maximum hourly flow rate through that contact basin. Calculated effective contact time in a "pipeline type contact basin" (often called a pipeline contactor) is calculated by dividing the internal volume of the pipe by the maximum hourly flow rate through that pipeline contactor. (3-24-22)~~

~~b. The Department may allow a system PWS to utilize automatic shut-off of water to the distribution system whenever total disinfectant residual is less than two-tenths (0.2) mg/l rather than provide redundant disinfection components and auxiliary power as required in 40 CFR 141.72(a)(2). An automatic water shut-off may be used if the system PWS demonstrates to the satisfaction of the Department that, at all times, a minimum of twenty (20) psi pressure and adequate fire flow can be maintained in the distribution system when water delivery is shut-off to the distribution system and, at all times, minimum Giardia lamblia and virus inactivation removal rates can be achieved prior to the first customer. (3-24-22)(    )~~

~~c. Each system PWS which is required to provide filtration must provide disinfection treatment such that filtration plus disinfection provide at least 3-Log or ninety-nine and nine tenths percent (99.9%) inactivation/removal of Giardia lamblia cysts and at least 4-Log or ninety-nine and ninety-nine hundredths percent (99.99%) inactivation/removal of viruses as specified in 40 CFR 141.72 and Section 300, and at least 2-Log or ninety-nine percent (99%) removal of Cryptosporidium as required by 40 CFR Part 141, Subpart P or Subpart T. However, in all cases the disinfection portion of the treatment train shall, must be designed to provide not less than five tenths (0.5) log Giardia lamblia inactivation, irrespective of the Giardia lamblia removal credit awarded to the filtration portion of the treatment train. (3-24-22)(    )~~

~~05. Analytical and Monitoring Requirements. 40 CFR 141.74 is herein incorporated by reference. (3-24-22)(    )~~

~~a. Each public water system which is required to provide disinfection shall monitor as follows: (3-24-22)~~

~~i. Each day the system is in operation, the purveyor shall determine the total level of inactivation of Giardia lamblia cysts and viruses achieved through disinfection based on CT99.9 values provided in 40 CFR 141.74(b)(3) (Tables 1.1 through 1.6, 2.1 and 3.1). (3-24-22)~~

~~ii. At least once per day, the system shall monitor the following parameters to determine the total inactivation ratio achieved through disinfection: (3-24-22)~~

~~(1) Temperature of the disinfected water at each residual disinfectant concentration sampling point; and (3-24-22)~~

~~(2) If using chlorine, the pH of the disinfected water at each chlorine residual sampling point. (3-24-22)~~

~~(3) The effective contact time, "T," must be determined each day during peak hour demand. Disinfectant contact time, "T," in pipelines used for Giardia lamblia and virus inactivation shall be calculated by dividing the internal volume of the pipe by the peak hour flow rate through that pipe. Effective contact time, "T," for all other system components used for Giardia lamblia and virus inactivation shall be determined by tracer studies or other evaluations or calculations acceptable to the Department. (3-24-22)~~

~~(4) The residual disinfectant concentrations at each residual disinfectant sampling point at or before the first customer, must be determined each day during peak hour demand, or at other times approved by the Department. (3-24-22)~~

~~iii. The purveyor may demonstrate to the Department, based on a Department approved on site disinfection challenge study protocol, that the system is achieving disinfection requirements specified in Subsection 300.04 utilizing CT99.9 values other than those specified in 40 CFR 141.74(b)(3) (Tables 2.1 and 3.1) for ozone, chlorine dioxide, and chloramine. (3-24-22)~~

~~iv.a.~~ The ~~total inactivation ratio shall be calculated as follows~~ calculations: 40 CFR 141.74(b)(4)(i) and (ii) are incorporated by reference. (3-24-22)(    )

~~(1) If the system applies disinfectant at only one (1) point, the system shall determine the total inactivation ratio by either of the two (2) following methods:~~ (3-24-22)

~~(a) One inactivation ratio (C<sub>Teale</sub>/CT<sub>99.9</sub>) is determined at/or before the first customer during peak hour demand; or~~ (3-24-22)

~~(b) Sequential inactivation ratios are calculated between the point of disinfectant application and a point at or before the first customer during peak hour demand. The following method must be used to calculate the total inactivation ratio:~~ (3-24-22)

~~(i) Step 1: Determine (C<sub>Teale</sub>/CT<sub>99.9</sub>) for each sequence.~~ (3-24-22)

~~(ii) Step 2: Add the (C<sub>Teale</sub>/CT<sub>99.9</sub>) values for all sequences. The result is the total inactivation ratio.~~ (3-24-22)

~~(2) If the system uses more than one point of disinfectant application at or before the first customer, the system must determine the CT value of each disinfection sequence immediately prior to the next point of disinfectant application during peak hour demand. The sum of the (C<sub>Teale</sub>/CT<sub>99.9</sub>) values from all sequences is the total inactivation ratio. (C<sub>Teale</sub>/CT<sub>99.9</sub>) must be determined by the methods described in 40 CFR 141.74(b)(4)(i)(B).~~ (3-24-22)

~~v.b.~~ Log removal credit for disinfection shall must be determined by multiplying the total inactivation ratio by three (3). (3-24-22)(    )

~~vi. The Department may reduce the CT monitoring requirements specified under Section 300, for any system which demonstrates that the required inactivation levels are consistently exceeded. Reduced CT monitoring shall be allowed only where the reduction in monitoring will not endanger the health of consumers served by the water system.~~ (3-24-22)

~~b. Residual disinfectant concentrations for ozone must be measured using the Indigo Method, or automated methods may be used if approved by the Department as provided for in 40 CFR 141.74(a)(2).~~ (3-24-22)

~~c. Unfiltered Subpart H systems. 40 CFR 141.857(c) is herein incorporated by reference.~~ (3-24-22)(    )

~~d. As provided for in 40 CFR 141.74(b), the Department may specify interim monitoring requirements for unfiltered systems notified by the Department or U.S. Environmental Protection Agency that filtration treatment must be installed. Until filtration is installed, systems shall conduct monitoring for turbidity and disinfectant residuals as follows unless otherwise specified by the Department. Unfiltered PWSs must monitor as required in 40 CFR 141.74(b) upon notification by the Department that filtration treatment must be installed.~~ (3-24-22)(    )

~~i. Disinfectant residual concentrations entering the distribution system shall be measured at the following minimum frequencies, and samples must be taken at evenly spaced intervals throughout the workday.~~

Minimum Frequencies	
Population	Samples/day
Less than 500	1
501-1000	2
1,001-2,500	3

Minimum Frequencies	
Population	Samples/day
Greater than 2504	4

(3-24-22)

~~ii.~~ Turbidity shall be measured at least once per day at the entry point to the distribution system. (3-24-22)

~~iii.e.~~ During the period prior to filtration treatment installation, the Department may, at its discretion, reduce the turbidity monitoring frequency for any non-community system which demonstrates to the satisfaction of the Department: (3-24-22)(\_\_\_\_)

~~(1)i.~~ A free chlorine residual of two-tenths (0.2) part per million is maintained throughout the distribution system; ( )

~~(2)ii.~~ The water source is well protected; ( )

~~(3)iii.~~ The total coliform *E. coli* MCL is not exceeded or a Level 1 or Level 2 Assessment has not been triggered in accordance with 40 CFR 141.859; and (3-24-22)(\_\_\_\_)

~~(4)iv.~~ No significant health risk is present. ( )

~~e.~~ The Department may allow systems with surface water sources or ground water sources under the direct influence of surface water, to substitute continuous turbidity monitoring for grab sample monitoring as specified in 40 CFR 141.74(b)(2) and 40 CFR 141.74(e)(1) and Subsection 300.05. The Department may allow continuous turbidity monitoring provided the continuous turbidimeter is operated, maintained, standardized and calibrated per the manufacturer's recommendations. For purposes of determining compliance with turbidity performance criteria, discrete values must be recorded every four (4) hours water is supplied to the distribution system. (3-24-22)

~~f.~~ The Department may allow systems using both a surface water source(s), or ground water source(s) under the direct influence of surface water, and one (1) or more ground water sources, to measure disinfectant residual at points other than the total coliform sampling points, as specified in 40 CFR 141.74(b)(6)(i) and 40 CFR 141.74(e)(3)(i) and Subsection 300.05. The Department may allow alternate sampling points provided the system submits an alternate monitoring plan to the Department for approval in advance of the monitoring requirement that demonstrates the alternative points are more representative of treated (disinfected) water quality within the distribution system. Heterotrophic bacteria, measured as heterotrophic plate count (HPC) as specified in 40 CFR 141.74(a)(1), may be measured in lieu of residual disinfectant concentration as outlined in 40 CFR 141.74(b)(6)(i). (3-24-22)

~~g.~~ The Department may allow a reduced turbidity monitoring frequency for systems using slow sand filtration or technology other than conventional, direct, or diatomaceous earth filtration, as specified in 40 CFR 141.74(e)(1) and Subsection 300.05. To be considered for a reduced turbidity monitoring frequency, a system must submit a written request to the Department in advance of the monitoring requirement. (3-24-22)

**06. Reporting and Recordkeeping Requirements.** 40 CFR 141.75 is ~~herein~~ incorporated by reference. (3-24-22)(\_\_\_\_)

**a.** As provided in 40 CFR 141.75(a) and Section 300, the Department may establish interim reporting requirements for ~~systems~~ PWSs notified by the Department or U.S. Environmental Protection Agency that filtration treatment must be installed as specified in 40 CFR 141.75(a) and as referred to in Subsection 300.06. Until filtration treatment is installed, ~~systems~~ PWSs required to install filtration treatment ~~shall~~ **must** report as follows: (3-24-22)(\_\_\_\_)

i. The purveyor ~~shall~~ will immediately report to the Department via telephone or other equally rapid means, but no later than the end of the next business day, the following information: (3-24-22)( )

- (1) The occurrence of a waterborne disease outbreak potentially attributable to that ~~water system~~ PWS; (3-24-22)( )
- (2) Any turbidity measurement which exceeds five (5) NTU; and ( )
- (3) Any result indicating that the disinfectant residual concentration entering the distribution system is below two-tenths (0.2) mg/l free chlorine. ( )

ii. The purveyor ~~shall~~ will report to the Department within ten (10) days after the end of each month the ~~system~~ PWS serves water to the public the following monitoring information using a Department-approved form: (3-24-22)( )

- (1) Turbidity monitoring information; and ( )
- (2) Disinfectant residual concentrations entering the distribution system. ( )

iii. Personnel qualified under Subsection 300.01 ~~shall~~ will complete and sign the monthly report forms submitted to the Department as required in Subsection 300.06. (3-24-22)( )

b. In addition to the reporting requirements in 40 CFR 141.75(b) pertaining to ~~systems~~ PWSs with filtration treatment, each ~~public water system~~ PWS which provides filtration treatment must report the level of Giardia lamblia and virus inactivation/removal achieved each day by filtration and disinfection. (3-24-22)( )

**07. Recycle Provisions.** 40 CFR 141.76 is ~~herein~~ incorporated by reference. (3-24-22)( )

a. The Department ~~shall~~ will evaluate recycling records kept by ~~water systems~~ PWSs pursuant to 40 CFR 141.76 during sanitary surveys, comprehensive performance evaluations, or other inspections. (3-24-22)( )

b. The Department may require a ~~system~~ PWS to modify recycling practices if it can be shown that these practices adversely affect the ability of the ~~system~~ PWS to meet surface water treatment requirements. ( )

**301. ENHANCED FILTRATION AND DISINFECTION - SYSTEMS SERVING TEN THOUSAND OR MORE PEOPLE.**

This Section incorporates, 40 CFR Part 141, Subpart ~~P~~, ~~of the National Primary Drinking Water Regulations~~, known as the Interim Enhanced Surface Water Treatment Rule. (3-24-22)( )

**01. General Requirements.** 40 CFR 141.170 is ~~herein~~ incorporated by reference. (3-24-22)( )

**02. Criteria for Avoiding Filtration.** 40 CFR 141.171 is ~~herein~~ incorporated by reference. (3-24-22)( )

**03. Disinfection Profiling and Benchmarking.** 40 CFR 141.172 is ~~herein~~ incorporated by reference. (3-24-22)( )

**04. Filtration.** 40 CFR 141.173 is ~~herein~~ incorporated by reference. (3-24-22)( )

**05. Filtration Sampling Requirements.** 40 CFR 141.174 is ~~herein~~ incorporated by reference. (3-24-22)( )

**302. SANITARY SURVEYS. ~~FOR SYSTEMS USING SURFACE WATER OR GROUND WATER UNDER THE DIRECT INFLUENCE OF SURFACE WATER.~~**

The Department ~~shall~~ conduct a sanitary survey of all ~~public water systems which use surface water or ground water under the direct influence of surface water~~ PWSs. Sanitary surveys will include, but are not limited to, the following elements: source; treatment; distribution system; finished water storage; pump, pump facilities, and controls;

monitoring and reporting and data verification; PWS management and operation; and operator compliance with state requirements. For those PWSs using groundwater, 40 CFR Part 141, Subpart S, is incorporated by reference.

3-24-22)( )

**01. Frequency.** For non-community ~~water systems~~ PWSs, a sanitary survey ~~shall~~ must be conducted every five (5) years. For community ~~water systems~~ PWSs, a sanitary survey ~~shall~~ will be conducted every three (3) years, except ~~that a community water system that has been determined to have outstanding performance, according to criteria established by the Department, may have a sanitary survey conducted every five (5) years~~ as provided below.

(3-24-22)( )

**a.** Community systems using surface water or groundwater under the direct influence of surface water that have been determined to have outstanding performance, according to criteria established by the Department, may have a sanitary survey conducted every five (5) years. ( )

**b.** Community systems using groundwater may have a sanitary survey conducted every five (5) years if the PWS provides at least a four (4)-log treatment of viruses (using inactivation, removal, or a Department-approved combination of 4-log inactivation and removal) before or at the first customer for all of its groundwater sources. ( )

**c.** Community systems using groundwater may have a sanitary survey conducted every five (5) years if they have an outstanding performance record, as determined by the Department and documented in previous sanitary surveys, and have no history of Revised Total Coliform Rule MCL or monitoring violations under Subsection 100.01 since the last sanitary survey. ( )

**02. Report.** ~~A-The Department will provided a~~ report describing the results of the sanitary survey ~~will be provided~~ to the ~~water system~~ PWS.

(3-24-22)

**a.** As part of the sanitary survey report or as an independent action, the Department ~~shall~~ will provide written notice to the ~~water system~~ PWS describing any significant deficiency within thirty (30) days after the Department identifies the significant deficiency. The notice may specify corrective actions and deadlines for completion of corrective actions.

(3-24-22)( )

**b.** ~~The Department may, at its discretion, provide this written notice at the time of the sanitary survey.~~ (3-24-22)

**03. Significant Deficiencies.** For each of the eight (8) elements of a sanitary survey of a groundwater system, the Department will consider the following deficiencies significant in all cases for the purposes of the notice required in Subsection 303.02. Decisions about the significance of other deficiencies identified during the sanitary survey will be at the Department's discretion, as indicated in the Department's sanitary survey protocol. ( )

**a.** Source: Lack of or improper sanitary well cap as specified in Subsection 511.06.b. ( )

**b.** Treatment: ( )

**i.** Chemical addition lacks emergency shut-off as specified in Subsection 531.02.b.ii. ( )

**ii.** Chemical addition is not flow proportioned where the rate of flow or chemical demand is not reasonably constant, as specified in Subsection 531.02.b.ii. ( )

**c.** Distribution system: A minimum system pressure of twenty (20) psi is not maintained throughout the distribution system as specified in Subsection 552.01.b. ( )

**d.** Finished water storage: Roof leaking, as specified in Subsections 544.09 and 544.09.c. ( )

**e.** Pumps, pump facilities, and controls: A pump house must be protected from contamination and unauthorized entry, as specified in Subsection 541.01. ( )

**f.** Monitoring, reporting, and data verification: Repeated failure to collect the required number and

~~type of Total Coliform Rule or the Revised Total Coliform Rule samples during the most recent two (2) year period, as specified in Subsection 100.01. ( )~~

~~g. PWS management and operation: History of frequent depressurization in the distribution system in violation of Subsection 552.01. ( )~~

~~h. Operator compliance with state licensing requirements: The PWS does not have a properly licensed responsible charge operator as required in Subsection 554.02. ( )~~

~~034. Response Required. After notification from the Department of significant deficiencies, the owner of a public water system PWS must respond in writing, describing how and on what schedule the system PWS will address all significant deficiencies, not later than forty-five (45) days after receiving notification from the Department for PWSs using surface water or groundwater under the direct influence of surface water or thirty (30) days for PWSs only using groundwater. (3-24-22)( )~~

~~045. Consultation with the Department. Public water systems shall PWS owners must consult with the Department prior to taking specific corrective actions in response to significant deficiencies identified during a sanitary survey, unless such corrective actions are specified in detail by the Department in its written notification under Subsection 302.02. (3-24-22)( )~~

~~05.6 Violation. Failure to address significant deficiencies identified in a sanitary survey that are within the control of the public water system and its governing body shall constitute is a violation of these rules. (3-24-22)( )~~

### ~~303. SANITARY SURVEYS FOR PUBLIC WATER SYSTEMS USING GROUND WATER.~~

~~The Department shall conduct a sanitary survey of all public water systems that use ground water. 40 CFR Part 141, Subpart S, is herein incorporated by reference. (3-24-22)~~

~~01. Frequency. For non-community water systems, a sanitary survey shall be conducted every five (5) years. For community water systems, a sanitary survey shall be conducted every three (3) years, except as provided below. (3-24-22)~~

~~a. A community water system may have a sanitary survey conducted every five (5) years if the system provides at least a four (4) log treatment of viruses (using inactivation, removal, or a Department approved combination of 4 log inactivation and removal) before or at the first customer for all of its ground water sources. (3-24-22)~~

~~b. A community water system may have a sanitary survey conducted every five (5) years if it has an outstanding performance record, as determined by the Department and documented in previous sanitary surveys, and has no history of Total Coliform Rule or Revised Total Coliform Rule MCL or monitoring violations under Subsection 100.01 since the last sanitary survey. (3-24-22)~~

~~02. Report. A report describing the results of the sanitary survey shall be provided to the water system. (3-24-22)~~

~~a. As part of the sanitary survey report or as an independent action, the Department shall provide written notice to the water system describing any significant deficiency within thirty (30) days after the Department identifies the significant deficiency. The notice may specify corrective actions and deadlines for completion of corrective actions. (3-24-22)~~

~~b. The Department may, at its discretion, provide this written notice at the time of the sanitary survey. (3-24-22)~~

~~03. Significant Deficiencies. For each of the eight (8) elements of a sanitary survey of a ground water system, the following deficiencies shall in all cases be considered significant for the purposes of the notice required in Subsection 303.02. Decisions about the significance of other deficiencies identified during the sanitary survey shall~~



- ~~be at the Department's discretion, as indicated in the Department's sanitary survey protocol. (3-24-22)~~
- ~~a. Source: Lack of a sanitary well cap as specified in Subsection 511.06.b. (3-24-22)~~
  - ~~b. Treatment: (3-24-22)~~
  - ~~i. Chemical addition lacks emergency shut-off as specified in Subsection 531.02.b.ii. (3-24-22)~~
  - ~~ii. Chemical addition is not flow proportioned where the rate of flow or chemical demand is not reasonably constant, as specified in Subsection 531.02.b.ii. (3-24-22)~~
  - ~~542.09. e. Distribution system: No means for flushing dead end water mains, as specified in Subsection 542.09. (3-24-22)~~
  - ~~d. Finished water storage: Roof leaking, as specified in Subsections 544.09 and 544.09.e. (3-24-22)~~
  - ~~e. Pumps, pump facilities, and controls: No accessible check valve between pump and shut off valve, as specified in Subsection 511.04. (3-24-22)~~
  - ~~f. Monitoring, reporting, and data verification: Repeated failure to collect the required number and type of Total Coliform Rule or the Revised Total Coliform Rule samples during the most recent two (2) year period, as specified in Subsection 100.01. (3-24-22)~~
  - ~~g. System management and operation: History of frequent depressurization in the distribution system in violation of Subsection 552.01. (3-24-22)~~
  - ~~h. Operator compliance with state licensing requirements: Responsible charge operator is not licensed as required in Subsection 554.02. (3-24-22)~~
- ~~**04. Response Required.** The owner of a public water system must respond in writing, describing how and on what schedule the system will address all significant deficiencies, not later than thirty (30) days after receiving notification from the Department. (3-24-22)~~
- ~~**05. Consultation with the Department.** Public water systems shall consult with the Department prior to taking specific corrective actions in response to significant deficiencies identified during a sanitary survey unless such corrective actions are specified in detail by the Department in its written notification under Subsection 303.02. (3-24-22)~~
- ~~**06. Violation.** Failure to address significant deficiencies identified in a sanitary survey that are within the control of the public water system and its governing body shall constitute a violation of these rules. (3-24-22)~~

**304. COMPOSITE CORRECTION PROGRAM (CCP).**

~~40 CFR 141.563 is incorporated by reference. In accordance with 40 CFR 142.16(g)(1), the Department ~~may~~ has authority to require the owner of a public water system PWC to conduct a composite correction program, as defined in Section 003 ~~of these rules~~, for the purpose of identifying and correcting deficiencies in water treatment and distribution. Composite Correction Programs consist of a Comprehensive Performance Evaluation (CPE) and Comprehensive Technical Assistance (CTA). ~~Failure to implement any Department required performance improvement factors identified through the CCP constitutes a violation of these rules. (3-24-22)( )~~~~

~~**01. Comprehensive Performance Evaluation (CPE).** ~~If required, the CPE must be~~ The CPE is conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance. It must emphasize approaches that can be implemented without significant capital improvements, ~~and must consist of at least the following components: assessment of plant performance; evaluation of major unit processes; identification and prioritization of performance limiting factors; assessment of the applicability of comprehensive technical assistance; and preparation of a CPE report.~~ The CPE assesses plant performance-based capabilities and associated administrative and operation and management practices. (3-24-22)( )~~

**02. Comprehensive Technical Assistance (CTA).** ~~During the CTA phase, the system must identify and systematically address plant specific factors.~~ The CTA consists of follow-up to the CPE results, implementation of process control priority setting techniques, and ~~maintaining~~ long-term involvement to systematically train staff and administrators. (3-24-22)(    )

**305. COLIFORM TREATMENT TECHNIQUE TRIGGERS AND ASSESSMENT REQUIREMENTS FOR PROTECTION AGAINST POTENTIAL FECAL CONTAMINATION.**  
40 CFR 141.859, excluding 40 CFR 141.859(a)(2)(iii), is ~~herein~~ incorporated by reference. (3-24-22)(    )

~~**01. Treatment Technique Triggers.** Systems owners and operators must ensure that assessments are conducted in accordance with Subsection 305.02 after exceeding treatment technique triggers in this subsection. (3-24-22)~~

~~**a.** Level 1 treatment technique triggers: (3-24-22)~~

~~i. For systems taking forty (40) or more samples per month, the system exceeds five percent (5.0%) total coliform positive samples for the month. (3-24-22)~~

~~ii. For systems taking fewer than forty (40) samples per month, the system has two (2) or more total coliform positive samples in the same month. (3-24-22)~~

~~iii. The system owner or operator fails to take every required repeat sample after any single total coliform positive sample. (3-24-22)~~

~~**b.** Level 2 treatment technique triggers: (3-24-22)~~

~~i. An E.coli MCL violation, as specified in Subsection 050.05 and Subsection 100.01 of these rules; or (3-24-22)~~

~~ii. A second or any additional Level 1 triggers as defined in Subsection 305.01.a. within a rolling 12-month period, unless the Department has determined a likely reason that the samples that caused the first Level 1 treatment technique trigger were total coliform positive and has established that the system has corrected the problem. (3-24-22)~~

**021. Requirements For Assessments.** ~~40 CFR 141.859(b) is incorporated by reference. (3-24-22)(    )~~

~~**a.** System owners and operators must ensure that Level 1 and 2 assessments are conducted in order to identify the possible presence of sanitary defects and defects in distribution system coliform monitoring practices. The Level 1 and 2 assessments must be conducted consistent with any Department directives that tailor specific assessment elements with respect to the size and type of the system PWS and the size, type, and characteristics of the distribution system. (3-24-22)(    )~~

~~**b.** When conducting assessments, owners and operators must ensure that the assessor evaluates minimum elements that include review and identification of inadequacies in sample sites; sampling protocol; sample processing; atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage); source and treatment considerations that bear on distributed water quality, where appropriate (e.g., small ground water systems); and existing water quality monitoring data. The system owner or operator must ensure the assessments are consistent with the elements in the Department provided forms for Level 1 and Level 2 assessments. (3-24-22)~~

~~**eb.** Level 1 Assessment. A system owner or operator must conduct a Level 1 assessment if the system exceeds one of the treatment technique triggers in Subsection 305.01.a. as soon as practical after any trigger level is identified and submit a completed Level 1 assessment report or form to the Department within thirty (30) days after the system learns that it has exceeded a trigger. 40 CFR 141.859(b)(3) is incorporated by reference. (3-24-22)(    )~~

~~i. The completed assessment report or form must describe sanitary defects detected, corrective actions completed, and a proposed timetable for any corrective actions not already completed. The assessment report or form may also note that no sanitary defects were identified. (3-24-22)~~

~~ii. If the Department reviews the completed Level 1 report or form and determines that the assessment is not sufficient (including any proposed timetable for any corrective actions not already completed), the Department will consult with the owner or operator of the system. If the Department requires revisions after consultation, the system owner or operator must submit a revised assessment report or form to the Department on an agreed-upon schedule not to exceed thirty (30) days from the date of consultation. (3-24-22)~~

~~iii. Upon completion and submission of the assessment report or form by the system owner or operator, the Department will determine if the system has identified a likely cause for the Level 1 trigger and, if so, establish that the system has corrected the problem, or has included a schedule acceptable to the Department for correcting the problem. (3-24-22)~~

~~dc. Level 2 Assessments. A system owner or operator must ensure that a Level 2 assessment is conducted if the system exceeds one of the treatment technique triggers in Subsection 305.01.b. The owner or operator must comply with any expedited actions or additional action required by the Department in the case of an E.coli MCL violation. 40 CFR 141.859(b)(4) is incorporated by reference. (3-24-22)(\_\_\_\_)~~

~~i. The system owner or operator must ensure that a Level 2 assessment is conducted by the Department or a party approved by the Department as described in Subsection 305.03 as soon as practical after any trigger in Subsection 305.01.b. and must submit a completed Level 2 assessment report or form to the Department within 30 (thirty) days after the system learns that it has exceeded a trigger if the assessment was conducted by a party other than the Department. (3-24-22)~~

~~ii. The Department will schedule and conduct Level 2 assessments for an E.coli treatment technique trigger in Subsection 305.01.b.i. unless the Department approves another party to conduct the assessment as outlined in Subsection 305.0302. (3-24-22)(\_\_\_\_)~~

~~iii. A second or any additional triggered Level 2 Assessment within a rolling twelve-month period must be conducted by a Department approved third party even if the public water system PWS owner has staff or management approved under Subsection 305.0302. (3-24-22)(\_\_\_\_)~~

~~iv. The completed assessment report or form must describe sanitary defects detected, corrective actions completed, and a proposed timetable for any corrective actions not already completed. The assessment report or form may also note that no sanitary defects were identified. (3-24-22)~~

~~v. If the Department reviews the completed Level 2 report or form and determines that the assessment is not sufficient (including any proposed timetable for any corrective actions not already completed), the Department will consult with the owner or operator of the system. If the Department requires revisions after consultation, the system owner or operator must submit a revised assessment report or form to the Department on an agreed-upon schedule not to exceed 30 (thirty) days from the date of consultation. (3-24-22)~~

~~vi. Upon completion and submission of the assessment report or form by the system owner or operator, the Department will determine if the system has identified a likely cause for the Level 2 trigger and, if so, establish that the system has corrected the problem, or has included a schedule acceptable to Department for correcting the problem. (3-24-22)~~

~~e. Corrective action. Systems must correct sanitary defects found through either Level 1 or Level 2 assessments conducted under this section. For corrections not completed by the time of submission of the assessment report or form, the system must complete the corrective action(s) in compliance with a timetable approved by the Department in consultation with the system. The system must notify the Department when each scheduled corrective action is completed. (3-24-22)~~

~~f. Consultation. At any time during the assessment or corrective action phase, either the water system or the Department may request a consultation with the other party to determine the appropriate actions to be taken.~~

~~The system may consult with the Department on all relevant information that may impact its ability to comply with a requirement of this Section, including the method of accomplishment, an appropriate timeframe, and other relevant information.~~ (3-24-22)

**032. Approved Parties for Level 2 Assessments.** The ~~system~~ PWS may conduct a Level 2 assessment if the ~~system~~ PWS has staff or management with the certification or qualifications outlined in this Subsection or if the ~~system~~ PWS hires parties that meet the qualifications in this Subsection. The following parties are approved by the Department to conduct Level 2 assessments: (3-24-22)( )

a. The Department or persons contracted with the Department who are trained to conduct sanitary surveys; ( )

b. Currently licensed operators in good standing that are licensed through the Idaho Division of Occupational and Professional Licenses with a drinking water classification of Distribution I through IV or Treatment I through IV and that are licensed at least to the classification level of the ~~public water system~~ PWS requiring the Level 2 assessment; or (3-24-22)( )

c. Licensed professional engineers licensed by the state of Idaho and qualified by education and experience in the specific technical fields involved in these rules. ( )

**306. -- 309. (RESERVED)**

**310. ENHANCED FILTRATION AND DISINFECTION - SYSTEMS SERVING FEWER THAN TEN THOUSAND PEOPLE.**

40 CFR 141, Subpart T, is ~~herein~~ incorporated by reference. (3-24-22)( )

**311. ENHANCED TREATMENT FOR CRYPTOSPORIDIUM -- LONG TERM 2 ENHANCED SURFACE WATER TREATMENT RULE.**

40 CFR Part 141, sSubpart W, is ~~herein~~ incorporated by reference. (3-24-22)( )

**01. Cryptosporidium Treatment Credit for Approved Watershed Control Program.** The Department ~~shall~~ will award 0.5 (zero point five) logs cryptosporidium removal credit to systems that have a Department approved Watershed Control Program. Requirements for a watershed control program are set forth in 40 CFR 141, Subpart W. Guidance on how to develop a watershed control program and obtain Department approval is provided in "Implementation Guidance for the Long Term 2 Enhanced Surface Water Treatment Rule," as referenced in Section 002. (3-24-22)( )

**02. Assessment of Significant Changes in the Watershed.** As part of the sanitary survey process set forth in Section 302, the Department, or an agent approved by the Department, ~~shall~~ will assess significant changes in the watershed of a surface water system that ~~have~~ occurred since the ~~system~~ PWS conducted source water monitoring. If changes in the watershed have the potential to significantly increase contamination of the source water with cryptosporidium, the Department ~~shall~~ will consult with the ~~water system~~ PWS owner on follow-up actions that may be required under 40 CFR 141, Subpart W, including, but not limited to, source water monitoring ~~and/~~ or additional treatment requirements. "Implementation Guidance for the Long Term 2 Enhanced Surface Water Treatment Rule," as referenced in Section 002, provides a description of factors that will be considered by the Department when making an assessment of changes in the watershed. These factors include, but are not limited to the following: (3-24-22)( )

a. New ~~NPDES~~ IPDES permits or changes in existing ~~NPDES~~ IPDES permits that involve increased loading of contaminants. (3-24-22)( )

b. Changes in land use patterns. ( )

c. Changes in agricultural cropping, chemical application, or irrigation practices. ( )

d. Changes in other non-point discharge source activities (such as grazing, manure application, commercial or residential development). ( )

- e. Stream or riverbed modifications. ( )
- f. ~~NPDES~~IPDES permit violations at wastewater treatment plants ~~and or~~ confined animal feedlot operations. (3-24-22)( )
- g. Dramatic natural events such as floods, forest fires, earthquakes, and landslides that may transport or expose contaminants. ( )
- h. Prolonged drought conditions that may warrant special preparatory measures to minimize impacts from waste accumulations that are washed into source waters when precipitation returns. ( )
- ~~i. Status of the water system's emergency response plan. (3-24-22)~~
- ji. Accidental or illegal waste discharges and spills. ( )

312. -- 319. (RESERVED)

**320. DISINFECTANT RESIDUALS, DISINFECTION BYPRODUCTS, AND DISINFECTION BYPRODUCT PRECURSORS.**

This Section incorporates 40 CFR Part 141, Subpart L, of the National Primary Drinking Water Regulations, known as the Disinfectants and Disinfection Byproducts Rule. ( )

- 01. **General Requirements.** 40 CFR 141.130 is ~~herein~~ incorporated by reference. (3-24-22)( )
- 02. **Analytical Requirements.** 40 CFR 141.131 is ~~herein~~ incorporated by reference. DPD colorimetric test kits may be used to measure residual disinfectant concentrations for chlorine, chloramines, and chlorine dioxide. (3-24-22)( )
- 03. **Monitoring Requirements.** 40 CFR 141.132 is ~~herein~~ incorporated by reference. (3-24-22)( )
- 04. **Compliance Requirements.** 40 CFR 141.133 is ~~herein~~ incorporated by reference. (3-24-22)( )
- 05. **Treatment Techniques for Control of Disinfection Byproduct (DBP) Precursors.** 40 CFR 141.135 is ~~herein~~ incorporated by reference. (3-24-22)( )

**321. INITIAL DISTRIBUTION SYSTEM EVALUATIONS.**

40 CFR Part 141, Subpart U, is ~~herein~~ incorporated by reference. "Implementation Guidance for the Stage 2 Disinfectants and Disinfection Byproducts Rule," as referenced in Section 002, provides assistance to ~~public water system~~ PWS owners and operators in understanding and achieving compliance with the requirements of 40 CFR 141, Subpart U. (3-24-22)( )

**322. STAGE 2 DISINFECTION BYPRODUCTS REQUIREMENTS.**

40 CFR Part 141, Subpart V, is ~~herein~~ incorporated by reference. "Implementation Guidance for the Stage 2 Disinfectants and Disinfection Byproducts Rule," as referenced in Section 002, provides assistance to public water system owners and operators in understanding and achieving compliance with the requirements of 40 CFR Part 141, Subpart V. ( )

**323. GROUND WATER RULE.**

40 CFR 141, Subpart S is ~~herein~~ incorporated by reference. "Implementation Guidance for the Drinking Water Program – Ground Water Rule," as referenced in Section 002, provides assistance to ~~public water system~~ PWS owners and operators in understanding and achieving compliance with the requirements of 40 CFR 141, Subpart S. (3-24-22)( )

- 01. **Discontinuation of Treatment.** ~~Systems~~ PWSs that wish to discontinue four (4)-log virus treatment at a ground-water source must meet the following criteria. Ground-water sources on which treatment has been discontinued ~~shall~~ will be subject to the triggered source water monitoring requirements of 40 CFR 141, Subpart S.

~~(3-24-22)~~( )

- a. Demonstration that any known source of contamination has been removed. ( )
- b. Demonstration that structural deficiencies of the well have been rehabilitated and no longer exist. ( )
- c. Provide evidence that the well is drawing from a protected or confined aquifer. ( )
- d. Submit results of one (1) year of monthly monitoring for a fecal indicator organism during which no positive results occurred. ( )

**02. Chlorine Purging Prior to Triggered Source Sampling.** 40 CFR 141.402(e) requires that ~~ground water groundwater~~ source samples be collected at a location prior to any treatment. Pursuant to this requirement, ~~systems PWSs~~ that add chlorine to a source, either in the well bore or near enough to the wellhead that chlorinated water ~~could may~~ backflow into the well, ~~shall must~~ ensure that all chlorine residual has been purged prior to taking a triggered source water sample. This ~~shall must~~ be accomplished by measuring chlorine residual in the source water until a reading of zero is obtained and be recorded in the space provided for chlorine residual on the sample submittal form. ~~(3-24-22)~~( )

324. -- 349. (RESERVED)

**350. CONTROL OF LEAD AND COPPER.**

~~40 CFR 141 Subpart I is incorporated by reference.~~ ( )

~~01. General Requirements.~~ 40 CFR 141.80, revised as of July 1, 2008, is herein incorporated by reference. ~~(3-24-22)~~

~~02. Applicability of Corrosion Control Treatment Steps to Small, Medium Size, and Large Water Systems.~~ 40 CFR 141.81, revised as of July 1, 2008, is herein incorporated by reference. ~~(3-24-22)~~

~~03. Description of Corrosion Control Treatment Requirements.~~ ~~(3-24-22)~~

~~a.~~ 40 CFR 141.82, revised as of July 1, 2008, is herein incorporated by reference. ~~(3-24-22)~~

~~b.~~ The Department may modify its determination of the optimal corrosion control treatment or optimal water quality control parameters where it concludes that such changes are necessary to optimize corrosion control treatment as specified in 40 CFR 141.82(h) and as referred to in Subsection 350.03. The Department may also modify its determination of the optimal corrosion control treatment or water quality control parameters where it finds such changes will provide equivalent or improved treatment in a manner which is simpler or less costly to operate. ~~(3-24-22)~~

~~04. Source Water Treatment Requirements.~~ 40 CFR 141.83, revised as of July 1, 2008, is herein incorporated by reference. The Department may modify its determination of optimal source treatment or maximum permissible lead and copper concentrations where it concludes that such changes are necessary as specified in 40 CFR 141.83(b)(6). ~~(3-24-22)~~

~~05. Lead Service Line Replacement Requirements.~~ 40 CFR 141.84, revised as of July 1, 2008, is herein incorporated by reference. ~~(3-24-22)~~

~~06. Public Education and Supplemental Monitoring Requirements.~~ 40 CFR 141.85, revised as of July 1, 2008, is herein incorporated by reference. ~~(3-24-22)~~

~~07. Monitoring Requirements for Lead and Copper in Tap Water.~~ 40 CFR 141.86, revised as of July 1, 2008, is herein incorporated by reference. ~~(3-24-22)~~

~~08. Monitoring Requirements for Water Quality Parameters.~~ 40 CFR 141.87, revised as of July 1, ~~(3-24-22)~~

2008, is herein incorporated by reference. (3-24-22)

~~09. Monitoring Requirements for Lead and Copper in Source Water. 40 CFR 141.88, revised as of July 1, 2008, is herein incorporated by reference. (3-24-22)~~

~~10. Analytical Methods. 40 CFR 141.89, revised as of July 1, 2008, is herein incorporated by reference. (3-24-22)~~

~~11. Reporting Requirements. 40 CFR 141.90, revised as of July 1, 2008, is herein incorporated by reference. (3-24-22)~~

~~12. Recordkeeping Requirements. 40 CFR 141.91, revised as of July 1, 2008, is herein incorporated by reference. (3-24-22)~~

351. -- 399. (RESERVED)

400. SECONDARY MCLS.  
~~40 CFR 143, Subpart A, is incorporated by reference. ( )~~

~~01. Purpose. 40 CFR 143.1, revised as of July 1, 2003, is herein incorporated by reference. (3-24-22)~~

~~02. Definitions. 40 CFR 143.2, revised as of July 1, 2003, is herein incorporated by reference. (3-24-22)~~

~~03. Secondary Maximum Contaminant Levels. 40 CFR 143.3, revised as of July 1, 2003, is herein incorporated by reference. (3-24-22)~~

~~04. Monitoring. 40 CFR 143.4, revised as of July 1, 2010, is herein incorporated by reference. (3-24-22)~~

401. -- 449. (RESERVED)

450. USE OF NON-CENTRALIZED TREATMENT DEVICES.

01. Criteria and Procedures for Public Water Systems Using Point of Entry Devices. 40 CFR 141.100 is ~~herein~~ incorporated by reference. (3-24-22)( )

02. Point of Use (POU) Treatment Devices. ( )

a. A ~~public water system~~ PWS owner may use point of use (POU) treatment ~~in order to achieve compliance~~ comply with certain maximum contaminant levels (MCL) or treatment techniques, ~~in accordance with Subsection 450.02.b.~~, when the following conditions are met: (3-24-22)( )

i. A program for long-term operation, maintenance, and monitoring of the POU treatment system is approved by the Department, pursuant to ~~Subsection 450.02.d~~ 450.02.c. (3-24-22)( )

ii. The ~~public water system~~ PWS owner or a vendor of POU treatment devices under contract with the ~~public water system~~ PWS must shall own, control, and maintain the POU treatment system to ensure proper operation and maintenance and compliance with the MCL or treatment technique. (3-24-22)( )

iii. Each POU treatment device is equipped with a mechanical warning mechanism to ensure ~~that~~ customers are automatically notified of operational problems. (3-24-22)( )

iv. ~~The~~ Each POU treatment device must be certified by an accredited American National Standards Institute (ANSI) certification body to meet applicable ANSI/National Sanitation Foundation (NSF) Standards. (3-24-22)( )

~~b.v.~~ POU treatment devices ~~shall will~~ not be used to ~~achieve compliance~~ comply with an MCL or treatment technique requirement for a microbial contaminant or an indicator of a microbial contaminant. Community ~~water systems~~ PWSs may not use POU treatment devices to ~~achieve compliance~~ comply with a nitrate ~~or nitrite~~ MCL. (3-24-22)(    )

~~eb.~~ The Department will waive the plan and specification requirements of Section 504 relating to material modifications for the following systems only to the extent that the material modification ~~proposed~~ is limited to the installation or use of a POU treatment device(s): (3-24-22)(    )

- i. Community ~~water systems~~ PWSs serving two hundred (200) or fewer service connections. (3-24-22)(    )
- ii. Non-transient non-community ~~water systems~~ PWSs; (3-24-22)(    )
- iii. Transient non-community ~~water systems~~ PWSs; or (3-24-22)(    )
- iv. Community ~~water systems~~ PWSs serving more than two hundred (200) service connections if approved by the Department through the waiver process outlined in Subsection 005.01.a.02. (3-24-22)(    )

~~dc.~~ A public water system must obtain written approval by the Department before installation of a POU treatment device for the purpose of achieving compliance with a MCL or treatment technique. The public water system ~~shall~~ Prior to installation, the PWS owner must submit the following documentation for approval to the Department: (3-24-22)(    )

i. Water system information:  
~~Information identifying the public water system name and number, total number of service connections, contaminant(s) to be treated, type of POU treatment device to be installed, manufacturer and model number of the POU treatment device, type and function of the mechanical warning mechanism (performance indicator) on the POU treatment device, certification verification for ANSI/NSF, installer qualifications, and a proposed date for installation of the POU treatment device(s).~~ (3-24-22)(    )

- (1) PWS name and identification number; (    )
- (2) Total number of service connections; (    )
- (3) Demonstration that all POU treatment devices are owned, controlled, and maintained by the PWS owner or by a vendor of POU treatment devices under contract with the PWS owner; (    )
- (4) Documentation that a customer at each service connection has agreed to installation and use of a POU treatment device and has granted access for installation, maintenance, and sampling; (    )
- (5) A statement of recognition that failure to maintain compliance with the MCL, or the failure to operate and maintain compliance with a POU treatment system as approved by the Department, may necessitate installation of centralized treatment; and (    )

554. (6) Documentation that the PWS is current with certified operator requirements pursuant to Section (    )

- ii. POU device information: (    )
  - (1) Type of POU treatment device; (    )
  - (2) Manufacturer, model number, and manufacturer's specifications; (    )
  - (3) Contaminant to be treated and documentation that the POU is certified and is of sufficient design



- and capacity for removal of the contaminant: ( )
- (4) Documentation that the PWS's water chemistry is compatible with the POU: ( )
  - (5) Type and function of the mechanical warning (performance indicator): ( )
  - (6) Certification verification for ANSI/NSF: ( )
  - (7) Documentation describing how other drinking water dispensing units, such as hot water dispensers and refrigerators, soda machines, water fountains, and other similar units will be provided with treated water and how the water will be transported to that unit with non-reactive piping or tubing. Non-transient non-community and transient non-community PWSs must demonstrate that the POU treatment devices are located in areas adequate to protect public health and in sufficient quantity to serve the system's users: ( )
  - (8) Installer qualifications; and ( )
  - (9) Proposed date for completing installation(s). ( )
- iii. POU operation, maintenance, and sampling plan that includes documentation on how the PWS owner will: ( )
- (1) Address any non-compliance with Subsection 450.02.c.i.(4): ( )
  - (2) Ensure real estate disclosures for the POU treatment systems; ( )
  - (3) Deliver ongoing education and outreach to customers, including renters, regarding POU treatment and health effects of the contaminant(s) of concern; ( )
  - (4) Address and perform on-going maintenance activities, including frequency of treatment media replacements and treatment device replacements, periodic verification that the mechanical warning device is functional, schedule of planned maintenance activities, a plan to address unscheduled maintenance problems, and a plan and method of waste disposal; and ( )
  - (5) Collect samples from the location of all service connections and demonstrating that all POU treatment devices will be sampled for compliance with the treated contaminant(s) during every compliance period or other frequency designated by the Department. ( )
- ~~ii. The manufacturer's specifications for the POU treatment device including demonstration that the POU treatment device is suited for the water chemistry of the public water system and contaminant(s) of concern and is of sufficient design and capacity for the particular application. (3-24-22)~~
- ~~iii. Information relating to how other drinking water dispensing units, such as instant hot water dispensers and refrigerator water and ice dispensers, whose primary function is to provide drinking water, will be provided with treated water. If water is transported from a POU treatment device to another drinking water dispensing unit, the conducting tube shall be of non-reactive material. (3-24-22)~~
- ~~iv. For non-transient non-community water systems and transient non-community water systems, demonstration that the drinking water dispensing units are located in areas adequate to protect public health. (3-24-22)~~
- ~~v. Demonstration that all POU treatment devices are owned, controlled, and maintained by the public water system or by a vendor of POU treatment devices under contract with the public water system. (3-24-22)~~
- ~~vi. A sampling plan identifying the location of all service connections and demonstrating how the system will ensure that all POU treatment devices are sampled for compliance with the contaminant(s) being treated during every compliance period or at a frequency designated by the Department. (3-24-22)~~

~~vii. Documentation that a customer at each service connection has agreed to installation and use of a POU treatment device and has granted access for installation, maintenance, and sampling. (3-24-22)~~

~~viii. A plan that describes how the public water system will address any non-compliance with Subsection 450.02.d.vii. (3-24-22)~~

~~ix. A maintenance plan that demonstrates how on-going maintenance activities will be performed and on what frequency, including: frequency of treatment media replacements, frequency of POU treatment device replacements, periodic verification that the mechanical warning device is functional, schedule of planned maintenance activities, plan of how the system will address unscheduled maintenance problems, and a plan and method of waste disposal. (3-24-22)~~

~~x. Documentation that the system meets the current requirements for a certified operator pursuant to Section 554. (3-24-22)~~

~~xi. A plan for on-going education and outreach to the customers of the public water system, including rental customers, on POU treatment and health effects of the contaminant(s) of concern. (3-24-22)~~

~~xii. A plan for how the system will ensure real estate disclosures for the POU treatment system. (3-24-22)~~

~~xiii. A statement of recognition that failure to maintain compliance with the MCL, or the failure to operate and maintain compliance with a POU treatment system as approved by the Department, may necessitate installation of centralized treatment. (3-24-22)~~

~~ed. Within thirty (30) days of installing the approved POU treatment system, the public water system shall PWS owner must: (3-24-22)( )~~

~~i. Notify the Department in writing that the POU treatment system was installed as approved by the Department. (3-24-22)( )~~

~~f. Within thirty (30) days of installing the approved POU treatment system, the public water system shall-s~~

~~ii. Submit samples from each POU treatment device to a certified laboratory for the contaminant(s) being treated by the POU treatment device. The samples shall be used to demonstrate initial compliance with the MCL. (3-24-22)( )~~

~~ge. The water system PWS owner or operator must maintain records for a POU treatment system. Records shall must be submitted to the Department at a frequency and in a format specified by the Department. Records to maintain shall include: (3-24-22)( )~~

~~i. Requirements of Subsection 450.02.dc.; (3-24-22)( )~~

~~ii. All sampling performed on the POU treatment devices; ( )~~

~~iii. Maintenance logs and schedules; ( )~~

~~iv. Log of installed units; and ( )~~

~~v. Contracts, lease agreements, or other legal documents with vendors and consumers. ( )~~

~~03. Use of Bottled Water. 40 CFR 141.101 is herein incorporated by reference. (3-24-22)( )~~

~~451. TREATMENT TECHNIQUES. 40 CFR 141, Subpart K, is incorporated by reference. (3-24-22)( )~~

~~01. General Requirements. 40 CFR 141.110 is herein incorporated by reference. (3-24-22)~~

~~02. Treatment Techniques for Acrylamide and Epichlorohydrin. 40 CFR 141.111 is herein incorporated by reference.~~ (3-24-22)

452. -- 499. (RESERVED)

**500. ~~FACILITY AND DESIGN STANDARDS: DEMONSTRATION OF TECHNICAL, FINANCIAL, AND MANAGERIAL CAPACITY OF PUBLIC DRINKING WATER SYSTEMS.~~**

No person ~~shall~~ may proceed, or cause to proceed, with construction of a new ~~or substantially modified~~ community or non-transient, non-community ~~drinking water system~~ PWS until ~~it has been~~ they have demonstrated to the Department that the ~~water system~~ PWS will have adequate technical, financial, and managerial capacity, as defined in Section 003. ~~of these rules.~~ Existing community or non-transient, non-community PWSs with technical, financial, or managerial problems, as determined by the Department, may be required to submit technical, financial, and managerial documentation to the Department for review and approval. With the exception of water sources, demonstration of capacity ~~shall~~ must be submitted to the Department prior to or concurrent with the submittal of plans and specifications, as required in Section 39-118, Idaho Code, and Subsection 504.03 ~~of these rules.~~ Plans and specifications for water sources may be submitted to the Department prior to demonstration of capacity for the ~~water system~~ PWS. The Department ~~shall~~ will issue its approval of the new ~~system~~ PWS capacity demonstration in writing. (3-24-22)(    )

**01. Technical Capacity.** ~~In order to meet this requirement, the public water system shall submit documentation to demonstrate~~ Demonstration of technical capacity must include the following: (3-24-22)(    )

- a. The ~~system~~ PWS meets the relevant design, construction, and operating requirements of these rules; (3-24-22)(    )
- b. The ~~system~~ PWS has an adequate and consistent source of water; (3-24-22)(    )
- c. A plan is in place to protect the water source and deal with emergencies; ( )
- d. A plan exists for replacement or improvement of infrastructure as necessary; and ( )
- e. The ~~system~~ PWS has trained personnel with an understanding of the technical and operational characteristics of the ~~system~~ PWS. (3-24-22)(    )

**02. Financial Capacity.** ~~A~~ Demonstration of financial capacity must include ~~but is not limited to~~ the following ~~information~~: (3-24-22)(    )

- a. Documentation that organizational and financial arrangements are adequate to construct and operate the ~~public water system~~ PWS in accordance with these rules. This information can be provided by submitting estimated construction, operation, and maintenance costs, letters of credit, or other access to financial capital through public or private sources and, if available, a certified financial statement; (3-24-22)(    )
- b. Demonstration of revenue sufficiency, that includes but is not limited to billing and collection procedures; a proposed rate structure which demonstrates the availability of operating funds, revenues for depreciation and reserves, and the ability to accrue a capital replacement fund. A preliminary operating budget ~~shall~~ must be provided; and (3-24-22)(    )
- c. Adequate fiscal controls must be demonstrated. ( )

**03. Managerial Capacity.** ~~In order to demonstrate adequate~~ Demonstration of managerial capacity, the ~~owner or operator of a new drinking water system shall submit at least~~ must include the following ~~information to the Department~~: (3-24-22)(    )

- a. Clear documentation of legal ownership and any plans that may exist for transfer of that ownership upon completion of construction or after a period of operation; ( )

b. The name, address, and telephone number of the person who will be accountable for ensuring that the ~~water system~~ PWS is in compliance with these rules; (3-24-22)( )

c. The name, address, and telephone number of the responsible charge operator; ( )

d. A description of the manner in which the ~~water system~~ PWS will be managed. Information such as by-laws, restrictive covenants, articles of incorporation, or procedures and policy manuals which describe the management organizational structure ~~shall~~ must be provided; (3-24-22)( )

e. A recommendation of staff qualifications, including training, experience, certification or licensing, and continuing education; ( )

f. An explanation of how the ~~water system~~ PWS will establish and maintain effective communications and relationships between the ~~water system~~ PWS management, its customers, professional service providers, and any applicable regulatory agencies; and (3-24-22)( )

g. Evidence of planning for future growth, equipment repair and maintenance, and long term replacement of system components. ( )

**04. Submittal Form.** ~~The Department shall provide a standard form to be used in preparing a new system capacity demonstration. The submittal form and general~~ The PWS owner may request guidance on how to prepare a ~~new system~~ capacity document is provided in, "How to Demonstrate Financial, Technical, and Managerial Capacity in New Public Water Systems." This document may be requested submittal from the Department, ~~and the guidance~~ is available on the DEQ department website at <http://www.deq.idaho.gov>. (3-24-22)( )

**05. Expanding Systems.** A ~~public water system~~ PWS which comes into existence as a result of growth in population or number of service connections within a previously unregulated system will be considered a new ~~system~~ PWS under these rules and is subject to all design, construction, and operating requirements herein. (3-24-22)( )

**06. Consolidation.** In demonstrating new ~~system~~ PWS capacity, the owner of the proposed new ~~system~~ PWS must investigate the feasibility of obtaining water service from an established ~~public water system~~ PWS. If such service is available, but the owner elects to proceed with an independent ~~system~~ PWS, the owner must explain why this choice is in the public interest in terms of environmental protection, affordability to water users, and protection of public health. (3-24-22)( )

**07. Exclusion.** New ~~public water systems~~ PWSs which are public utilities as defined in Sections 61-104 (Corporation), 61-124 (Water System), 61-125 (Water Corporation), and 61-129 (Public Utility), Idaho Code, must meet the regulatory requirements of the Idaho Public Utilities Commission (IPUC) in Chapter 1, Title 61, Idaho Code, Public Utilities Law, and IDAPA 31.01.01, "Rules of Procedure of the Idaho Public Utilities Commission." Such water systems will not be required to meet any requirements of this Section which are in conflict with the provisions and requirements of the IPUC. (3-24-22)( )

**501. ~~FACILITY AND DESIGN STANDARDS: GENERAL DESIGN REQUIREMENTS FOR PUBLIC DRINKING WATER SYSTEMS.~~**

Unless otherwise specified by the Department, the design of new ~~drinking water systems~~ PWSs, or modifications to existing ~~public drinking water systems, shall be in conformance with~~ PWSs must conform to the facility and design standards set forth in 40 CFR 141.5, and Sections ~~006 and~~ 500 through 552 ~~of these rules~~. The following general design requirements ~~shall~~ apply as applicable for the type of ~~water system~~ PWS and the treatment or other processes employed. (3-24-22)( )

**01. Materials Used in Construction.** Products that are used to construct ~~public drinking water systems~~ PWSs and have water contact surfaces ~~shall~~ must conform to applicable AWWA standards and be certified by an accredited ANSI certification body to meet applicable ANSI/NSF standards, where products meeting such AWWA and ANSI/NSF standards exist, and must conform to 40 CFR 143 Subpart B. In the absence of such products, products meeting applicable product standards and acceptable to the ~~reviewing authority~~ Department may be selected. Corrosion control ~~shall~~ must be taken into account during all aspects of ~~public water system~~ PWS design.

(3-24-22)( )

02. **Additives Used in Operation.** No chemical or other substance ~~shall will~~ be added to drinking water, nor ~~shall will~~ any process be utilized to treat drinking water, unless ~~specifically~~ approved by the Department. All chemicals ~~shall must~~ conform to applicable AWWA standards and be certified by an accredited ANSI certification body to meet ANSI/NSF Standard 60, referenced in Subsection 002.02. (3-24-22)( )

03. **Design Basis.** The ~~system PWS~~, including the water source and treatment facilities, ~~shall must~~ be designed to provide either peak hour demand of the ~~system PWS~~ or maximum day demand plus equalization storage at the design year. (3-24-22)( )

04. **Design of Treatment Facilities.** Design of treatment facilities ~~shall must~~ address: (3-24-22)( )

- a. Functional aspects of facility layout and provisions for future facility expansion; ( )
- b. Provision for expansion of waste treatment and disposal facilities (see Section 540); ( )
- c. Roads constructed to provide year-round access by vehicles and equipment needed for repair and maintenance; ( )
- d. Site grading and drainage; and ( )

e. ~~Chemical Feed or Injection. Unless otherwise approved by the Department based on documentation provided by the design engineer, all chemical feed or injection systems must be designed to ensure complete mixing through rapid mix devices or other measures.~~ Chemical feed or injection systems must be designed to ensure complete mixing through rapid mix devices or other measures unless otherwise approved by the Department. (3-24-22)( )

f. ~~Redundancy. Unless otherwise approved by the Department or as specified in other sections of these rules, to ensure that minimum quality, quantity, and pressure requirements of these rules are continuously met during maintenance, breakdowns, structural failures, emergencies, or other periods when components must be out of service, water system treatment, filtration, and disinfection components for all new or substantially modified community or non-transient, non-community drinking water systems shall PWSs must be designed with redundancy or other acceptable methods, such that plant design capacity can be maintained with any component out of service. Raw water intake structures are excluded from the general redundancy requirement but shall must be designed to ensure that plant design capacity will be maintained.~~ (3-24-22)( )

05. **Design of Buildings.** The design of buildings that are a part ~~of public drinking water systems shall PWSs must~~ provide for: (3-24-22)( )

- a. Adequate ventilation, lighting, heating, and air conditioning; ( )
- b. Adequate drainage; ( )
- c. Dehumidification equipment, if necessary; ( )
- d. Accessibility of equipment for operation, servicing, and removal; ( )
- e. Flexibility and convenience of operation and safety of operators; and ( )
- f. Separate room(s) for chemical storage and feed equipment that may be required based on type of chemicals and associated hazards. ( )

06. **Electrical.** Main switch gear electrical controls ~~shall must~~ be located above grade, in areas not subject to flooding. All electrical work ~~shall must~~ conform to the requirements of the National Electrical Code or to relevant state/local codes. The National Electrical Code is available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02169-7471, (617)770-3000, <http://www.nfpa.org>. (3-24-22)( )

07. **Reliability and Emergency Operation.** New community ~~water systems constructed after April 15, 2007~~ PWSs are required to have sufficient dedicated on-site standby power, with automatic switch-over capability, or standby storage so that water may be treated and supplied to pressurize the entire distribution system during power outages. During a power outage, the ~~water system shall~~ PWS must be able to meet the operating pressure requirements of Subsection 552.01.b. for a minimum of eight (8) hours at average day demand plus fire flow where provided. A minimum of eight (8) hours of fuel storage ~~shall must~~ be located on site unless an equivalent plan is authorized by the Department. Standby power provided in a ~~public drinking water system shall~~ PWS may be coordinated with the standby power that is provided in the wastewater collection and treatment system.

(3-24-22)( )

a. The Department may require the installation of standby power or storage facilities in existing ~~systems~~ PWSs if the frequency and duration of power outages a ~~system~~ PWS experiences constitute a health hazard.

(3-24-22)( )

b. Existing community ~~public water systems~~ PWSs that are ~~substantially modified after April 15, 2007 shall~~ undergoing material modifications must meet the requirements of Subsection 501.07. in those portions of the ~~system~~ PWS affected by the modifications.

(3-24-22)( )

c. New sources and booster pumps intended to increase ~~system~~ PWS capacity ~~shall must~~ be provided with standby power or equivalent unless, during a power outage, the ~~public water system~~ PWS or distribution system pressure zone can already meet the minimum operating capacity and pressure requirements in Subsection 501.07 for a minimum of eight (8) hours at average day demand plus fire flow where provided for each pressure zone.

(3-24-22)( )

d. For both new and existing ~~public water systems~~ PWSs, the Department may reduce the requirements of Subsection 501.07 if the ~~system~~ PWS can demonstrate the capacity to adequately protect public health during a power outage. Any decision by the Department will be based on, but not limited to, the following considerations:

(3-24-22)( )

i. An adequate emergency response and operation plan and the capacity to implement that plan.

( )

ii. The adequacy of the ~~system's~~ PWS's cross connection control program and the capacity to protect public health in the event of a system wide depressurization.

(3-24-22)( )

iii. Demonstration of historical and projected reliability of the electrical power supplied to the ~~water system~~ PWS.

(3-24-22)( )

iv. A strategy for providing information to the public during power outages, including instructions to stop irrigation, boil water, etc., until notified otherwise.

( )

v. The level of reliability acceptable to consumers. This can be accomplished with either a vote of the majority of consumers for privately owned and operated ~~systems~~ PWSs or a decision by the governing body for publicly governed ~~systems~~ PWSs.

(3-24-22)( )

vi. Other considerations that may be pertinent, including connections to other ~~public water systems~~ PWSs, agreements to provide water in emergency situations, and the availability of dedicated portable auxiliary power.

(3-24-22)( )

08. **On-Site Analysis and Testing Capabilities.** Each ~~public water system shall~~ PWS must have equipment and facilities for routine testing necessary to ensure proper operation. Equipment selection ~~shall must~~ be based on the characteristics of the raw water source and the complexity of the treatment process involved.

(3-24-22)( )

09. **Sample Taps.** Sample taps ~~shall must~~ be provided so that water samples can be obtained from each water source and from appropriate locations in each unit operation of treatment, and from the finished water. Taps

~~shall~~ **must** be consistent with sampling needs and shall not be of the petcock type. Taps owned by the ~~water system~~ **PWS** and used for obtaining samples for bacteriological analysis ~~shall~~ **must** be of the smooth-nosed type without interior or exterior threads, ~~shall~~ **will** not be of the mixing type, and ~~shall~~ **will** not have a screen, aerator, or other such appurtenance. (3-24-22)( )

**10. Facility Potable Water Supply.** The facility water supply service line and the plant finished water sample tap ~~shall~~ **must** be supplied from a source of finished water at a point where all chemicals have been thoroughly mixed, and the required disinfectant contact time, if applicable, has been achieved. There ~~shall~~ **may** be no cross connections between the facility water supply service line and any piping, troughs, tanks, or other treatment units containing wastewater, treatment chemicals, raw or partially treated water. (3-24-22)( )

**11. Meters.** All water supplies ~~shall~~ **must** have an acceptable means of measuring the flow from each source, the wash water, the recycled water, any blended water of different quality, and the finished water. (3-24-22)( )

**12. Operation and Maintenance Manual.** A new or updated operation and maintenance manual that addresses all ~~water system~~ **PWS** facilities ~~shall~~ **must** be submitted to the Department for review and approval prior to start-up of the new or materially modified ~~public water system~~ **PWS** unless the same system components are already covered in an existing operation and maintenance manual. For existing ~~systems~~ **PWSs** with continual operational problems as determined by the Department, the Department may require that an operation and maintenance manual be submitted to the Department for review and approval. The operator ~~shall~~ **will** ensure that the ~~system~~ **PWS** is operated in accordance with the approved operation and maintenance manual. (3-24-22)( )

**13. Start-Up Training.** Provisions ~~shall~~ **must** be made for operator instruction at the start-up of a new plant or pumping station. (3-24-22)( )

**14. Safety.** Consideration ~~shall~~ **must** be given to the protection of maintenance personnel and visitors from typical and foreseeable hazards in accordance with the engineering standards of care. The design ~~shall~~ **must** comply with all applicable safety codes and regulations that may include the Uniform Building Code, International Fire Code, National Fire Protection Association Standards, and state and federal OSHA standards. Items to be considered include, but are not limited to, noise arresters, noise protection, confined space entry, protective equipment and clothing, gas masks, safety showers and eye washes, handrails and guards, warning signs, smoke detectors, toxic gas detectors and fire extinguishers. (3-24-22)( )

**15. Security.** Appropriate design measures to help ensure the security of ~~water system~~ **PWS** facilities ~~shall~~ **must** be incorporated. Such measures, at a minimum, ~~shall~~ **will** include means to lock all exterior doorways, windows, gates and other entrances to source, treatment, pumping stations, and water storage facilities. (3-24-22)( )

**16. Other Regulations.** Consideration must be given to the design requirements of other federal, state, and local regulatory agencies for items such as safety requirements, special designs for the handicapped, plumbing and electrical codes, and construction in the flood plain. ( )

**17. Ground-Water Source Redundancy.** New community ~~water systems~~ **PWSs** served by ~~ground water~~ **shall** ~~groundwater~~ **must** have a minimum of two (2) sources if they are intended to serve more than twenty-five (25) connections or equivalent dwelling units (EDUs). Under normal operating conditions, with any source out of service, the remaining source(s) ~~shall~~ **must** be capable of providing either the peak hour demand of the ~~system~~ **PWS** or a minimum of the maximum day demand plus equalization storage. See Subsection 501.18 for general design and redundancy requirements concerning fire flow capacity. (3-24-22)( )

**18. Redundant Fire Flow Capacity.** ( )

**a.** ~~Public water systems~~ **PWSs** that provide fire flow ~~shall~~ **must** be designed to provide maximum day demand plus fire flow. Fire flow requirements and system adequacy ~~shall~~ **will** be determined by the local fire authority or by a hydraulic analysis by a licensed professional engineer to establish required fire flows in accordance with the International Fire Code as adopted by the State Fire Marshal. Pumping systems supporting fire flow capacity must be designed so that **maximum day demand plus** fire flow may be provided with any pump out of service.

(3-24-22)( )

b. The requirement for redundant pumping capacity specified in Subsection 501.18.a. may be reduced to the extent that fire suppression storage is provided in sufficient quantity to meet some or all of fire flow demands. Where fire suppression storage is not provided, the requirement for fire flow pumping redundancy may be reduced or eliminated if the following conditions are met: ( )

i. The local fire authority justifies that the fire flow capacity of the ~~system~~ PWS is acceptable and is compatible with the water demand of existing and planned fire-fighting equipment and fire-fighting practices in the area served by the ~~system~~ PWS. (3-24-22)( )

ii. In a manner appropriate to the ~~system~~ PWS type and situation, notification is provided to customers that describes the design of the ~~system's~~ PWS's fire-fighting capability and explains how it differs from the requirements of Subsection 501.18.a. (3-24-22)( )

19. **Pilot Studies.** Unless otherwise approved by the Department ~~based on documentation provided by the design engineer~~, pilot studies are required for treatment processes other than chlorine disinfection or point of use installations. Pilot studies may be performed in the field using the proposed source water or in conjunction with bench scale testing in the lab using the proposed source water. The ~~system shall~~ PWS must obtain the Department's approval of a pilot study plan before the pilot study is implemented. A pilot study ~~shall will~~ be conducted for a period that ~~shall be is~~ determined by the design engineer and approved by the Department. A final pilot study report with results ~~shall must~~ be submitted to the Department for review and approval. Upon completion of the pilot study, final approval of equipment and treatment processes is subject to the applicable requirements of Sections 500 through 552. (3-24-22)( )

a. ~~Pilot Study Plan.~~ A pilot study plan ~~shall must~~ include the following and any other items required by the Department: (3-24-22)( )

i. ~~Introduction and Background. The plan shall discuss g~~General information about the project including the existing system, the reason for conducting the pilot study, and anticipated results of a successful pilot study. (3-24-22)( )

ii. ~~Alternative Processes. Provide a~~ brief description of alternative processes that ~~could may~~ be used if the proposed process is shown to be ineffective from the study. (3-24-22)( )

iii. ~~Procedures and Methods. The procedures and methods section shall discuss~~Discussion of how the pilot study will be conducted, the time frame of the study, source water quality, how source water may be altered to mimic various source water quality conditions, and the water quality parameters that are monitored and evaluated to determine if the treatment process was effective. (3-24-22)( )

b. ~~Pilot Study Report.~~ The pilot study report ~~shall must~~ include the following and any other items required by the Department: (3-24-22)( )

i. Introduction and Background. ( )

ii. ~~Results.~~ A discussion of the overall pilot study progress, including any issues or problems and a general discussion of results of the study and what the results indicate. This discussion ~~should will~~ determine parameters necessary for full scale implementation. (3-24-22)( )

iii. ~~Conclusions.~~ Conclusions and recommendation to proceed with the treatment process if the results of the study proved successful. (3-24-22)( )

c. Additional specific pilot study requirements in Sections 500 through 552 ~~shall must~~ be included in pilot study plans and reports. (3-24-22)( )

d. ~~Engineer's Seal Required.~~ Pilot study plans and pilot study reports submitted to the Department ~~shall must~~ bear the imprint of an Idaho licensed professional engineer's seal that is both signed and dated by the



engineer.

(3-24-22)( )

**502. FACILITY AND DESIGN STANDARDS: FACILITY PLANS.**

See the definition of Facility Plan in Section 003.

(3-24-22)( )

**01. Facility Plans Required.** ~~A~~ ~~The owner of all new public drinking water systems PWSs, and existing public drinking water systems PWSs~~ undergoing material modification ~~or expansion~~, are required to have a current facility plan that ~~shall~~ addresses all applicable issues specifically required in Sections 500 through 552 ~~of these rules including, but not limited to, hydraulic capacity, treatment capacity, standby power, redundancy, fire flows, project financing, and operation and maintenance considerations sufficiently to determine the effects of the project on the overall infrastructure.~~ Facility plans must address the entire potential service area of the project. Facility plans may not be required for simple water main extension projects as detailed in Subsections 502.01.a. and 502.01.b.

(3-24-22)( )

**a.** ~~Department reviewed simple water main extension projects.~~ A facility plan is not required if the Department is provided documentation supporting the ability of the purveyor to provide service for the simple water main extension without adding system components designed to control quantity or pressure to the ~~system PWS~~ and while continuing to provide the pressure and quantity requirements of Subsection 552.01. Documentation may be in the form of:

(3-24-22)( )

- i. Hydraulic modeling; ( )
- ii. Usage data and flow calculations; ( )
- iii. Declining balance reports that demonstrate the ~~system PWS~~ has the capacity to supply the service area of the system served by the extension; or (3-24-22)( )
- iv. Other documentation acceptable to the Department. ( )

**b.** ~~Qualified Licensed Professional Engineer (QLPE) reviewed Simple Water Main Extension Projects.~~ A Department-approved facility plan is not required to be in place prior to the Qualified Licensed Professional Engineer (QLPE) approving a simple water main extension pursuant to Subsection 504.03.b., provided that the service area of the system served by the extension is in compliance with the facility and design standards in Sections 500 through 552 ~~of these rules~~. If the Department has not approved a facility plan for the ~~system PWS~~ which includes the proposed simple water main extension, then the ~~system PWS~~ purveyor or the QLPE ~~shall~~ must provide with the transmittal letter documentation supporting the ability of the purveyor to provide service for the simple water main extension without adding system components designed to control quantity or pressure to the ~~system PWS~~ and while continuing to provide the pressure and quantity requirements of Subsection 552.01. The purveyor ~~shall~~ must provide this documentation to the QLPE as necessary. Documentation may be in the form of:

(3-24-22)( )

- i. Hydraulic modeling; ( )
- ii. Usage data and flow calculations; ( )
- iii. Declining balance reports that demonstrate the ~~system PWS~~ has the capacity to supply the service area of the system served by the extension; or (3-24-22)( )
- iv. Other documentation acceptable to the Department. ( )

**02. Submittal to the Department.** When required, facility plans ~~shall~~ must be submitted to the Department for review and approval prior to the submission of plans and specifications for a project related to the facility plan unless otherwise approved by the Department.

(3-24-22)( )

**03. Engineer's Seal Required.** Facility plans submitted to the Department ~~shall~~ must bear the imprint of an Idaho licensed professional engineer's seal that is both signed and dated by the engineer.

(3-24-22)( )

**04. Facility Plan Contents.** The facility plan ~~shall~~ must include basic information, criteria and

assumptions, ~~and hydraulic capacity, treatment capacity, standby power, redundancy, fire flows, project financing, operation and maintenance considerations,~~ alternative solutions with preliminary layouts, and cost estimates as applicable. The facility plan is intended to address system wide growth, to identify system deficiencies, and to lay out a plan for system upgrades and expansion. If specific items listed in Subsections 502.04.a.i. through 502.04.a.viii. or Subsections 502.04.b.i. through 502.04.b.vii. are not applicable to a particular facility plan, then the submitting engineer must state this in the facility plan and state the reason why the requirement is not applicable.

(3-24-22)( )

a. ~~New public water system facility plan.~~ The minimum requirements for a facility plan for a new ~~public water system~~ PWS are listed in Subsections 502.04.a.i. through 502.04.a.viii. ~~If specific items listed in Subsections 502.04.a.i. through 502.04.a.viii. are not applicable to a particular system, then the submitting engineer shall state this in the facility plan and state the reason why the requirement is not applicable. The facility plan must also include sufficient detail to support applicable requirements of Sections 501 through 552.~~ but it must include:

(3-24-22)( )

- i. ~~Location.~~ A general description and location of the ~~system~~ PWS. (3-24-22)( )
- ii. ~~Population.~~ The estimated design population of the ~~system~~ PWS including the number of connections and the number of EDUs proposed. (3-24-22)( )
- iii. ~~Sources of Water.~~ Adequacy, quality, and availability of sources of water for potable use and a description of the non-potable irrigation system. (3-24-22)( )
- iv. ~~Treatment.~~ Identify and describe any anticipated treatment. (3-24-22)( )
- v. ~~Water Quantity.~~ Design data covering water quantity for domestic, irrigation, fire fighting, commercial, or industrial water uses, including peak hour, maximum day, and average day demands. (3-24-22)( )
- vi. ~~Storage.~~ Include the size and location of any anticipated storage structures. (3-24-22)( )
- vii. ~~Operating Pressure.~~ Pressure ranges for all flow conditions prescribed by these rules. (3-24-22)( )
- viii. ~~Sewage.~~ Describe the ~~sewage wastewater~~ collection system and ~~sewage wastewater~~ treatment works, with reference to their relationship to existing or proposed water works structures which may affect the operation of the water supply system, or which may affect the quality of the supply. (3-24-22)( )

b. ~~Existing public water system facility plan.~~ The minimum requirements for a facility plan for an existing ~~public water system~~ PWS must include Subsections 502.04.b.i. through 502.04.b.vii. as well as Subsections 502.04.a.i. through 502.04.a.viii. ~~If specific items listed in Subsections 502.04.b.i. through 502.04.b.vii. or Subsections 502.04.a.i. through 502.04.a.viii. are not applicable to a particular facility plan, then the submitting engineer shall state this in the facility plan and state the reason why the requirement is not applicable. The facility plan must also include sufficient detail to support applicable requirements of Sections 501 through 552.~~

(3-24-22)( )

i. ~~Hydraulic analysis.~~ A computerized hydraulic analysis of the hydraulics model of the distribution system ~~if requested~~ based on flow demand and pressure requirements is required unless otherwise approved by the Department; any ~~analysis~~ hydraulic model of an existing distribution system ~~shall must~~ be properly calibrated. The type or sophistication of ~~analysis shall~~ hydraulic model will be dependent on the type of ~~system~~ PWS.

(3-24-22)( )

- ii. Identify and evaluate problems related to the ~~drinking water system~~ PWS. (3-24-22)( )
- iii. Describe financing methods. ( )
- iv. Set forth anticipated charges for users. ( )

- v. Review organizational and staffing requirements. ( )
- vi. Offer a project(s) recommendation for client consideration. ( )
- vii. Outline official actions and procedures to implement the project. ( )

c. **Public Water System Facility Plan funded by the State Revolving Fund.** If the project is funded by the state revolving fund or a state grant, the facility plan must meet the requirements of Subsections 502.04.a. and 502.04.b., and other requirements that may also apply. See IDAPA 58.01.2012, “Rules for Administration of Wastewater and Drinking Water Loan Program Funds,” and IDAPA 58.01.22, “Rules for Administration of Planning Grants for Public Drinking Water and Wastewater Facilities.” (3-24-22)( )

d. **Facility Plan Guidance.** A checklist, which can be used as guidance, can be found on the DEQ Department website at <http://www.deq.idaho.gov>. The guidance document is for Department grant and loan projects, but may be used in part or in whole as a guide to assist in the development of any facility plan. (3-24-22)( )

### 503. **FACILITY AND DESIGN STANDARDS: PRELIMINARY ENGINEERING REPORTS.**

See the definition of Preliminary Engineering Report (PER) in Section 003. Preliminary engineering reports PERs are required for all new water systems PWSs or material modifications to existing water systems PWSs that require plan and specification review and approval pursuant to Subsection 504.03. The preliminary engineering PER must report shall be in conformance with the approved facility plan or shall must describe any modifications to the facility plan. Preliminary engineering reports PERs must be completed for all major water system PWS projects including, but not limited to, source, pump station, pressure control, storage, and treatment projects. Preliminary engineering reports PERs are not required for simple water main extensions that are approved in accordance with Subsections 502.01.a. or 502.01.b. (3-24-22)( )

01. **Submittal to Reviewing Authority.** Preliminary engineering reports shall PERs must be submitted to the Department for review and must be approved by the Department approval prior to the submission of plans and specifications. The Department may allow well construction plans and specifications to be submitted concurrently with a preliminary engineering report PER for these projects. (3-24-22)( )

02. **Seal Required.** Preliminary engineering reports PERs submitted to the Department shall must bear the imprint of an Idaho licensed professional engineer's seal that is both signed and dated by the engineer. The Department will accept the seal and signature of an Idaho licensed professional geologist on preliminary reports for well source, spring source, or infiltration gallery site reports, and for well construction. (3-24-22)( )

03. **Preliminary Engineering Report PER Contents.** The preliminary engineering report PER must include sufficient detail to demonstrate that the proposed project meets applicable criteria. The items included in Subsections 503.03.a. through 503.03.e., and all applicable issues and items specifically required in Sections 500 through 552, shall must be addressed in detail or justification must be provided for any proposed deviations where specifically allowed. As required, a preliminary engineering report shall PER must also identify and evaluate drinking water related problems, assemble basic information, present criteria and assumptions, examine alternative solutions with preliminary layouts and cost estimates, offer a conclusion with a proposed project, and outline official actions and procedures to implement the project. If specific items in Subsections 503.03.a. through 503.03.e. are not applicable to a particular design, then the designer shall must state this in the preliminary engineering report PER and state the reason why it is not applicable. Items adequately addressed in the facility plan under which the project is being designed may be addressed by reference for purposes of the preliminary engineering report PER. (3-24-22)( )

a. All preliminary engineering reports shall PERs must include items in Subsection 503.03.a. and the applicable items from Subsections 503.03.b. through 503.03.e. (3-24-22)( )

i. **General information.** The preliminary engineering report general information shall must include, but is not limited to: (3-24-22)( )

- (1) **Project description.** A detailed description of the proposed project; (3-24-22)( )

- (2) ~~Site selection.~~ A general description of the location of the project and justification of the site selection; (3-24-22)( )
- (3) ~~Access and utilities.~~ A general discussion of adequacy of local roadways and availability of power or other utilities; (3-24-22)( )
- (4) ~~Surrounding land use.~~ A general discussion of surrounding land use, including any potential sources of contamination; and (3-24-22)( )
- (5) ~~Security.~~ A general discussion of planned security features such as fencing, lighting, alarm systems, etc. (3-24-22)( )
- ii. ~~Coordination with facility plan. The preliminary engineering report shall~~ The PER must discuss or reference items provided in the Department-approved facility plan. These items include, but are not limited to: (3-24-22)( )
- (1) ~~Existing System.~~ A general description of the existing ~~system~~ PWS and how the project fits into the overall system and facility plan; (3-24-22)( )
- (2) ~~Size.~~ The estimated ~~system~~ PWS size based on number of persons, number of connections, or number of EDUs served or impacted by the project; (3-24-22)( )
- (3) ~~Water Quantity.~~ Design data for domestic, irrigation, fire fighting, commercial and industrial water uses, including peak hour, maximum day, and average day demands; (3-24-22)( )
- (4) ~~Storage.~~ How the project will affect various storage requirements. See definition of Components of Finished Water Storage in Section 003; (3-24-22)( )
- (5) ~~Operating Pressure.~~ Pressure ranges for all flow conditions prescribed by these rules; (3-24-22)( )
- (6) ~~Hydraulic Analysis.~~ A computer ~~analysis model~~ of the hydraulics of the distribution system ~~if requested based on flow demands and pressure requirements is required unless otherwise approved~~ by the Department; any ~~analysis hydraulic model~~ of an existing distribution system ~~shall must~~ be properly calibrated. The type and sophistication of ~~analysis shall hydraulic model will~~ be dependent on the type of ~~system~~ PWS; (3-24-22)( )
- (7) ~~Sources of Water.~~ A general discussion of the adequacy, quality and availability of source of water. A ~~water system~~ PWS that is to be served by a separate non-potable irrigation system must provide documentation to demonstrate the actual availability of water in sufficient quantity to ensure that the irrigation system will not compete with or in any way diminish the source of water for the potable water system; (3-24-22)( )
- (8) ~~Sewage.~~ Describe the ~~sewage wastewater~~ collection system and ~~sewage wastewater~~ treatment works, with special reference to their relationship to existing or proposed water works structures which may affect the operation of the water supply system, or which may affect the quality of the supply; (3-24-22)( )
- (9) ~~Treatment wastes.~~ Assesses and characterize all anticipated treatment waste discharges generated by the project and any activities that ~~could may~~ impact the water supply. The location of each waste handling area or discharge point ~~shall must~~ be shown on a scale map; (3-24-22)( )
- (10) ~~Financing methods.~~ Provide brief discussion of financing options investigated or planned; and (3-24-22)( )
- (11) ~~Flooding.~~ Discuss mechanisms for protection of the ~~system~~ PWS from flooding. (3-24-22)( )
- iii. ~~Code provisions. The preliminary engineering report shall i~~ Include a summary of applicable codes

and standards that apply to the proposed project. (3-24-22)( )

iv. ~~Cost estimate. The preliminary engineering report shall p~~ Provide, as applicable, estimated construction costs for public works projects or projects funded through public monies. (3-24-22)( )

v. ~~Construction schedule. The preliminary engineering report shall i~~ Include the proposed construction schedule. (3-24-22)( )

vi. ~~Potential sources of contamination.~~ Identify sources of contamination and describe how the drinking water sources will be protected. (3-24-22)( )

vii. ~~Soils and ground water levels.~~ Generally discuss soil, ground-water conditions, and potential building foundation problems, including a description of: (3-24-22)( )

(1) The character of the soil through which water mains are to be laid; ( )

(2) Characteristics of the soil, water table, and geological substrate that may affect the design and construction of the foundations of proposed structures; and ( )

(3) The approximate elevation of ground-water in relation to subsurface structures. (3-24-22)( )

b. ~~Drinking water wells and spring construction projects.~~ In addition to items listed in Subsection 503.03.a., a ~~preliminary engineering report~~ PER for source water construction projects ~~shall~~ using wells or springs must include all items listed in Subsection 503.03.b., applicable items in Sections 510 through 514, and Sections 500 to 552 ~~should~~ are to be evaluated for their relevance to the project. (3-24-22)( )

i. ~~Anticipated geology and hydrogeology.~~ Include geological data and existing well logs. (3-24-22)( )

ii. ~~Drilling methodology.~~ Describe the anticipated drilling method and well construction. (3-24-22)( )

iii. ~~Water quality.~~ Anticipated potability and water quality including monitoring results required for new sources by these rules. (3-24-22)( )

iv. ~~Water rights.~~ Provide the appropriate documentation for the water rights for the drinking water source. (3-24-22)( )

v. Dimensions of the well lot and location of source. Include geographical coordinates of the source location. ( )

vi. ~~Evaluation of surface water influence.~~ For all new ground-water sources, including but not limited to wells, springs, and infiltration galleries, ~~systems shall~~ PWSs must supply information as required by the Department for the Department to determine if these sources are under the direct influence of surface water. The determination of direct influence may be based on site-specific measurements of water quality, documentation of well construction characteristics and geology with field evaluation, a combination of water quality and documentation, or other information required by the Department. (3-24-22)( )

vii. Provide a site evaluation report as required by Section 510 for wells and 514 for springs. ( )

c. ~~Well and pump house construction projects.~~ In addition to items listed in Subsection 503.03.a., ~~preliminary engineering reports~~ PERs for well and pump house construction projects ~~shall~~ must include all items listed in Subsection 503.03.c., applicable items in Sections 511, 541, 547, and Sections 500 to 552 ~~should~~ are to be evaluated for their relevance to the project. (3-24-22)( )

i. ~~Well house.~~ Include information on the anticipated construction and well house equipment such as heating, ventilation, interior lighting, and drain(s). (3-24-22)( )

- ii. ~~Water Level.~~ Provide a brief description of the means for measuring the water level in the well. (3-24-22)( )
- iii. ~~Well pump.~~ Include information on the proposed or planned pump, including the pump curve. (3-24-22)( )
- iv. ~~Controls.~~ Describe the equipment and controls for the well and pump house. This includes but is not limited to system control and data acquisition, variable frequency drive, and other manual or automated controls within the well house. (3-24-22)( )
- v. Piping and appurtenances including but not limited to sample taps, discharge piping, flow meters, check valves, and pressure gauges. Describe the receiving system for the pump to waste volume of water including an evaluation of the capacity of the receiving system and, if applicable, provide documentation that the system owner will accept the estimated volume of water and any limitations the owner places upon that acceptance. ( )
- vi. ~~Well vent.~~ Describe the well vent if applicable. (3-24-22)( )
- vii. ~~Casings and well caps.~~ Describe the anticipated casing and well cap type and materials. (3-24-22)( )
- viii. ~~Pitless adapters and units.~~ Describe the anticipated pitless adapter for the well. (3-24-22)( )
- ix. ~~Soil and water conditions.~~ Describe the soil and ground-water conditions that may affect the design and construction of proposed structure(s). (3-24-22)( )
- d. ~~Reservoir and storage construction projects.~~ In addition to items listed in Subsection 503.03.a., preliminary engineering reports PERs for reservoir and storage construction projects ~~shall~~ must include all items listed in Subsection 503.03.d., applicable items in Sections 544, and Sections 500 to 552 ~~should~~ are to be evaluated for their relevance to the project. (3-24-22)( )
  - i. ~~Sizing.~~ Describe the required storage capacity and the related components of finished water storage. (3-24-22)( )
  - ii. ~~Overflow.~~ Describe the anticipated overflow system for the water storage project and where the overflow will discharge. (3-24-22)( )
  - iii. ~~Vents.~~ Describe the venting system used for the water storage project if applicable. (3-24-22)( )
  - iv. ~~Construction materials.~~ Describe the construction materials used for the storage project. (3-24-22)( )
  - v. ~~Protection from freezing.~~ Describe the protection of storage facility features from freezing especially riser pipes, overflows, and vents. (3-24-22)( )
  - vi. ~~Grading.~~ Describe any site work or grading that may be necessary. (3-24-22)( )
  - vii. ~~Corrosion prevention.~~ Provide a discussion on methods to prevent corrosion such as coatings, cathodic protection, corrosion resistant materials, and encasement. (3-24-22)( )
  - viii. ~~Disinfection.~~ Describe the methods to be used to disinfect the storage facility and the testing to check for proper disinfection. (3-24-22)( )
- e. Surface water and ground-water under the direct influence of surface water (GWUDI) treatment construction projects. In addition to items listed in Subsection 503.03.a., preliminary engineering reports PERs for surface water treatment and GWUDI construction projects ~~shall~~ must include all items listed in Sections 503.03.e.,

applicable items in Sections 515 through 540, and Sections 500 to 552 ~~should~~ are to be evaluated for their relevance to the project. (3-24-22)( )

- i. ~~Intake structures.~~ Describe the intake structures that will be used. (3-24-22)( )
- ii. ~~Off-stream raw water storage.~~ If applicable, describe the proposed off-stream raw water storage. (3-24-22)( )
- iii. ~~Treatment methods.~~ Describe the treatment methods and potential alternatives including the removal of pathogens, disinfection, enhanced disinfection, water quality monitoring, and redundancy provisions. (3-24-22)( )
- iv. ~~Treatment Wastes.~~ Characterize the various wastes from the water treatment processes and, if applicable, their volumes, constituents, and proposed treatment and disposal. If discharging to a sanitary sewage system, verify that the system is capable of handling the flow to the treatment works and that the treatment works is capable and willing to accept the additional loading. (3-24-22)( )
- v. ~~Monitoring Results.~~ Provide applicable raw water monitoring results as required by these rules including anticipated turbidity ranges, microbiological, physical, chemical, radiological, and other parameters as determined by the Department. (3-24-22)( )
- vi. ~~Potential contamination.~~ An assessment of the degree of hazard to the supply by agricultural, industrial, recreational, and residential activities in the watershed, and by accidental spillage of materials that may be toxic, harmful or detrimental to treatment processes. (3-24-22)( )
- vii. ~~Waste discharge.~~ Assess all waste discharges and activities that ~~could~~ may impact the water supply. The location of each waste discharge ~~shall~~ must be shown on a scale map. (3-24-22)( )
- viii. ~~Hydrological and historical stream flow data.~~ Provide any available records and data regarding hydrological and historical stream flow. (3-24-22)( )
- ix. ~~Water rights and water quantity.~~ A copy of the appropriate permit(s) or application(s) from the Idaho Department of Water Resources regarding authorization to appropriate public waters of the state of Idaho in sufficient quantity to meet the design requirements of the ~~system~~ PWS. (3-24-22)( )
- x. ~~Turbidity.~~ Anticipated turbidity range. (3-24-22)( )
- xi. ~~Watershed.~~ Assessment of the degree of control the ~~water system~~ PWS will be able to exercise over the watershed. (3-24-22)( )
- xii. Projected future uses of impoundments or reservoirs within the watershed. (3-24-22)( )
- xiii. ~~Water quality.~~ Submit source water sample data over a sufficient period of time to assess the microbiological, physical, chemical and radiological characteristics of the water. (3-24-22)( )
- xiv. ~~Stream characteristics.~~ Provide consideration of currents, wind and ice conditions, and the effect of confluent streams. (3-24-22)( )

**504. ~~FACILITY AND DESIGN STANDARDS- REVIEW OF PLANS AND SPECIFICATIONS.~~**

The Department will apply the facility and design standards set forth in these rules ~~shall be applied.~~ Subsections 500 through 548, in the review of plans and specifications for ~~public water system~~ PWS facilities. If design issues are not addressed by the facility and design standards set out in these rules, then guidance documents, some of which are listed in Subsection 002.02, ~~shall~~ must be used as guidance in the design and review of plans and specifications for public drinking water facilities. See also Section 013. (3-24-22)( )

**01. Ownership.** ~~The PWS owner must provide d~~ documentation of the ownership and responsibility for operating the proposed system shall be made available PWS to the Department prior to or concurrent with the

submittal of plans and specifications as required in Subsection 504.03. The documentation must show organization and financial arrangements adequate to assure construction, operation and maintenance of the ~~system~~ PWS according to these rules. Documentation ~~shall~~ also includes the name of the ~~water system~~ PWS, the name, address, and phone number of the supplier of water, the ~~system~~ PWS size, and the name, address, and phone number of the ~~system~~ PWS operator. This information may be presented in a will serve letter as required in Subsection 504.02.

(3-24-22)( )

**02. Connection to an Existing System Will Serve Letter.** If the proposed project is to be connected to an existing ~~public water system~~ PWS, a letter from the purveyor must be submitted to the Department stating that the purveyor will be able to provide services to the proposed project and that purveyor has reviewed and accepted the proposed construction plans and specifications. The Department may require documentation supporting the ability of the purveyor to provide service to the new system without diminishing quality of service to existing customers, as described in Subsection 502.01.a and 502.01.b. This letter must be submitted prior to or concurrent with the submittal of plans and specifications as required in Subsection 504.03.

(3-24-22)( )

**03. Plans and Specifications Required.** ( )

**a.** Prior to construction of new ~~public drinking water systems, new drinking water systems designed to serve fifteen (15) or more service connections,~~ PWSs or material modifications of existing ~~public water systems~~ PWSs, the owner must submit plans and specifications ~~must be submitted~~ to the Department for review and approval. Construction ~~should~~ must commence as soon as practical after approval, and if construction is not completed within twelve (12) months of the Department's final approval, an extension or re-approval must be obtained from the Department. The Department may require re-submittal of all or part of the plans and specifications prior to issuing an extension or re-approving the plans and specifications.

(3-24-22)( )

**b.** Plans and specifications for simple water main extensions ~~shall do~~ not require pre-construction approval by the Department when such extensions will be owned and operated by a city, county, quasi-municipal corporation or regulated public utility, provided that such plans and specifications are reviewed and approved by a QLPE who was not involved in the preparation of the plans and specifications being reviewed to verify compliance with the requirements of these rules prior to initiation of construction. Any plans and specifications approved pursuant to Subsection 504.03.b. ~~shall must~~ be transmitted to the Department at the time construction is authorized and ~~shall will~~ be marked or stamped as "Approved for Construction." Along with the plans and specifications, the transmittal must include the items listed in Subsections 504.03.b.i. through 504.03.b.vii. The plans and specifications must bear the imprint of an Idaho licensed professional engineer's seal that is both signed and dated by the engineer, and the approval or transmittal letter must be sealed, signed, and dated by the QLPE that is approving the plans and specifications.

(3-24-22)( )

**i.** A statement that the author of the transmittal letter is the QLPE representing the city, county, quasi-municipal corporation or regulated public entity. ( )

**ii.** A statement that the extension project complies with the current facility plan or ~~preliminary engineering report~~ PER, or a statement that the ~~water system~~ PWS has adequate capacity. Please see Subsection 502.01.b. for further information.

(3-24-22)( )

**iii.** A statement from the city, county, quasi-municipal corporation or regulated public entity or its authorized agent that the ~~water system~~ PWS purveyor will serve the project.

(3-24-22)( )

**iv.** A statement from the city, county, quasi-municipal corporation or regulated public entity or its authorized agent that the ~~water system~~ PWS purveyor will own and operate the project after construction is complete.

(3-24-22)( )

**v.** A statement by the QLPE that the plans and specifications are approved for construction. ( )

**vi.** A statement by the QLPE that the plans and specifications comply with the facility standards within these rules. ( )

**vii.** A statement recommending whether sanitary restrictions can be released or ~~should will~~ remain in



force. (3-24-22)( )

c. Subsections 504.03.c.i. through 504.03.c.vi. outline the projects which QLPEs may approve and which QLPEs may not approve. ( )

i. A QLPE may approve plans and specifications for simple water main extensions that are able to connect to an existing ~~water system~~ **PWS** owned by a city, county, quasi-municipal corporation, or regulated public utility at the time the extension is approved for construction by the QLPE. (3-24-22)( )

ii. A QLPE may approve plans for simple water main extensions which will connect to an existing ~~water system~~ **PWS**, but are unable to connect to the ~~system~~ **PWS** at the time the extension is approved for construction by the QLPE, provided sanitary restrictions remain in force for the proposed extension. (3-24-22)( )

iii. A QLPE may not approve plans and specifications which include mechanical systems such as booster stations. ( )

iv. A QLPE may not approve plans and specifications for projects which the QLPE was the design engineer or otherwise involved in the design. ( )

v. A QLPE employed by a city, county, quasi-municipal corporation, or regulated public utility may approve a design that was prepared by a subordinate engineer or an engineer from a separate design group within the city, county, quasi-municipal corporation, or regulated public utility. ( )

vi. A QLPE who is not employed by a city, county, quasi-municipal corporation, or regulated public utility, but is retained by a city, county, quasi-municipal corporation, or regulated public utility for the purpose of plan and specification review may not approve projects designed by the company with which the QLPE is employed. ( )

d. At the discretion of the city, county, quasi-municipal corporation or regulated public utility, the plans addressed by Subsection 504.03.b. may be referred to the Department for review and approval prior to initiation of construction. ( )

**04. ~~Criteria for Review~~ **Criteria**.** The Department ~~shall will~~ review plans and specifications to determine compliance with these rules and engineering standards of care. If the plans and specifications comply with these rules and engineering standards of care, the Department ~~shall will~~ not substitute its judgment for that of the owner's design engineer concerning the manner of compliance with the rule. (3-24-22)( )

**05. ~~Schedule for Review~~ **Schedule**.** The Department ~~shall will~~ review plans and specifications ~~and endeavor to resolve design issues within forty two (42) calendar days of submittal such that approval can be granted. If the Department and applicant have not resolved design issues within forty two (42) calendar days or at any time thereafter, the applicant may file a written demand to the Department for a decision. Upon receipt of such written demand, the Department shall deliver a written decision to the applicant within no more than seven (7) calendar days explaining any reasons for disapproval. The Department shall maintain records of all written demands for decision made pursuant to Subsection 504.05 with such records including the final decision rendered and the timeliness thereof~~ **in accordance with timelines set forth in Section 39-118, Idaho Code.** (3-24-22)( )

**06. **Engineer's Seal Required.**** Plans and specifications submitted to the Department ~~shall must~~ bear the imprint of an Idaho licensed professional engineer's seal; except that the Department will accept the seal of an Idaho licensed professional geologist on the following: (3-24-22)( )

a. Well source, spring source, or infiltration gallery site evaluation reports, as specified in Subsections 510 and 514. ( )

b. Plans and specifications for well construction and results of field inspection and testing, as specified in Section 510. ( )

**07. **Contents of Plans and Specifications.**** Plans and specifications ~~shall must~~, where pertinent,

provide the following:

~~(3-24-22)~~( )

- a. General layout, including: ( )
  - i. Suitable title. ( )
  - ii. Name of municipality or other entity or person responsible for the water supply. ( )
  - iii. Area or institution to be served. ( )
  - iv. Scale of drawings. ( )
  - v. North arrow. ( )
  - vi. Datum used. ( )
  - vii. General boundaries of municipality or area to be served. ( )
  - viii. Date, name, and address of the designing engineer. ( )
  - ix. Legible prints suitable for reproduction. ( )
  - x. Location and size of existing water mains, if applicable. ( )
  - xi. For ~~systems~~ **PWSs** undergoing material modification, location and nature of existing water works structures and appurtenances affecting the proposed improvements. ~~(3-24-22)~~( )
- b. Detailed plans, including: ( )
  - i. Stream crossings, providing profiles with elevations of the stream bed and the estimated normal and extreme high and, where appropriate, low water levels. ( )
  - ii. Location and size of the property to be used for the development with respect to known references such as roads, streams, section lines, or streets. ( )
  - iii. Topography and arrangement of present or planned wells or structures. ( )
  - iv. Elevations of the one hundred (100) year flood level in relation to the floor of structures, upper termination of protective casings, and grade surrounding facilities. ( )
  - v. Details of well construction, including diameter and depth of drill holes, casing and liner diameters and depths, grouting depths, elevations, and designation of geological formations, water levels and other data as specified in Section 510. ( )
  - vi. Location of all known existing and potential sources of pollution within five hundred (500) feet of water sources or underground treated storage facilities. ( )
  - vii. Size, length, and materials of proposed water mains. ( )
  - viii. Location of existing or proposed streets; water sources, ponds, lakes, and drains; storm sanitary, combined and house sewers; septic tanks, disposal fields and cesspools. ( )
  - ix. Schematic flow diagrams and hydraulic profiles showing the flow through various plant units. ( )
  - x. Piping in sufficient detail to show flow through the plant including waste lines. ( )

- xi. Locations of all chemical storage areas, chemical feeding equipment, and points of chemical application. ( )
- xii. All appurtenances, specific structures, equipment, water treatment plant waste disposal units and points of discharge having any relationship to the plans for water mains or water works structures. ( )
- xiii. Locations of sanitary or other facilities, such as lavatories, showers, toilets, and lockers, when applicable or required by the Department. ( )
- xiv. Locations, dimensions, and elevations of all proposed plant facilities. ( )
- xv. Locations of all sampling taps owned by the ~~water system~~ **PWS**. (3-24-22)( )
- xvi. Adequate description of any significant features not otherwise covered by the specifications that may impact public safety or welfare. ( )
- c. Complete, detailed technical specifications ~~shall~~ **must** be supplied for the proposed project, including: (3-24-22)( )
  - i. A program for keeping existing water works facilities in operation during construction of additional facilities so as to minimize interruption of service. ( )
  - ii. Laboratory facilities and equipment. ( )
  - iii. Description of chemical feeding equipment. ( )
  - iv. Procedures for flushing, disinfection and testing, as needed, prior to placing the project in service. All wells, pipes, tanks, and equipment which can convey or store potable water ~~shall~~ **must** be disinfected in accordance with AWWA Standards, incorporated into these rules at Subsection 002.01. Plans or specifications ~~shall~~ **must** outline the procedure and include the disinfectant dosage, contact time, and method of testing the results of this procedure. (3-24-22)( )
  - v. Materials or proprietary equipment for sanitary or other facilities, including any necessary backflow or back-siphonage protection. ( )
- d. Complete design criteria, as set forth in these rules. ( )
- e. The Department may require additional information which is not part of the construction drawings, including, but not limited to, head loss calculations, proprietary technical data, and copies of contracts. ( )

**08. Notification of Material Deviations.** As set forth in Subsection 504.03, during construction or modification, the ~~reviewing authority~~ **Department** must be notified of any material deviation from the approved plans. The reviewing authority's prior written approval is required before any material deviation is allowed. (3-24-22)( )

**09. Record Plans and Specifications Required.** ( )

a. ~~Within thirty (30) calendar days of the completion of construction of facilities for which plans are required to be reviewed pursuant to Subsection 504.03, record plans and specifications based on information provided by the construction contractor and field observations made by the engineer or the engineer's designee depicting the actual construction of facilities performed, must be submitted to the Department by the engineer representing the city, county, quasi-municipal corporation or regulated public utility that owns the project, or by the design engineer or owner designated substitute engineer if the facilities will not be owned and operated by a city, county, quasi-municipal corporation or regulated public utility. Such submittal by the professional engineer must confirm material compliance with the approved plans and specifications or disclose any material deviations therefrom. If the construction does not materially deviate from the approved plans and specifications, the owner may have a statement to that effect prepared by an Idaho licensed professional engineer and filed with the Department in~~

~~lieu of submitting a complete and accurate set of record drawings.~~ Must be submitted to the Department by the design engineer as specified in Section 39-118(3), Idaho Code. (3-24-22)( )

b. Record plans and specifications, or a statement submitted in lieu of record plans and specifications, must bear the imprint of an Idaho licensed professional engineer's seal that is both signed and dated by the engineer. ( )

c. The Department will accept the seal and signature of an Idaho licensed professional geologist on record plans and specifications, or a statement bearing the seal and signature of an Idaho licensed professional geologist in lieu of record plans and specifications, for record plans and specifications for well construction and results of field inspection and testing, as specified in Section 510. ( )

10. **Exception.** The Department may waive the plan and specification approval required of any ~~particular~~ facility or category of facilities when doing so will have no significant impact on public health or the environment. (3-24-22)( )

11. ~~Requirement to Have Approved Plans and Specifications and Department Approval Letter~~ **On-Site During Construction.** It is the responsibility of the owner to maintain one (1) copy of the approved plans and specifications and the approval letter from the reviewing authority on-site during construction at all times. (3-24-22)( )

12. **Construction.** Except as provided in Subsection 504.03.b., no construction ~~shall will~~ commence until all of the necessary approvals have been received from the Department. The owner ~~shall must~~ provide for the inspection of the construction of a ~~public drinking water system~~ PWS facility by an Idaho licensed professional engineer to the extent required to confirm material compliance with the approved plans and to produce accurate record documents as required by Subsection 504.09. (3-24-22)( )

**505. -- 509. (RESERVED)**

**510. ~~FACILITY AND DESIGN STANDARDS: SITING AND CONSTRUCTION OF WELLS.~~**

Written approval by the Department is required before water from any new or reconstructed well may be served to the public. Any supplier of water for a ~~public water system~~ PWS served by one (1) or more wells ~~shall must~~ ensure that the following requirements are met: (3-24-22)( )

01. **Site Approval.** Prior to drilling, the site of a ~~public water system~~ PWS well must be approved in writing by the Department. ~~The Department shall require the supplier of water to submit a~~ A well site evaluation report must be submitted prior to or concurrent with the PER for the well. ~~that~~ The well site evaluation must take into account the proposed size, depth, and location of the well. The evaluation may include, but is not limited to the following types of information: (3-24-22)( )

a. An evaluation of the quality of anticipated ground-water. (3-24-22)( )

b. Identification of the known aquifers and the extent of each aquifer, based on the stratigraphy, sedimentation, and geologic structure beneath the proposed well site. ( )

c. An estimate of hydrologic and geologic properties of each aquifer and confining layers. ( )

d. Prediction of the sources of water to be extracted by the well and the drawdown of existing wells, springs, and surface water bodies that may be caused by pumping the proposed well. This prediction may be based on analytical or numerical models as determined by the Idaho Department of Water Resources permitting process. ( )

e. Demonstration of the extent of the capture zone of the well, based on the well's design discharge and on aquifer geology, using estimates of hydraulic conductivity and storativity. ( )

f. Description of potential sources of contamination including, but not limited to, sewers and sewage treatment/disposal facilities, highways, railroads, landfills, outcroppings of consolidated water-bearing formations,

chemical facilities, waste disposal wells, and agricultural uses within five hundred (500) feet of the well site. ~~(3-24-22)~~( )

**02. Location.** ~~Each well shall be staked by the design engineer or licensed professional geologist prior to drilling, be located a minimum of fifty (50) feet from the nearest property line, be located a minimum of fifty (50) feet from any potential source of contamination, and be no closer to specified sources of contamination than set forth in Subsection 900.01.~~ In vulnerable settings, the Department may require engineering or hydrologic analysis to determine if the required setback distance is adequate to prevent contamination. Each well must be staked by the design engineer or licensed professional geologist prior to drilling and meet the following minimum distances:

<b>Minimum Distances from a Public Water System Well</b>	
Frost free hydrant	5 feet
Property line	50 feet
Gravity wastewater line	50 feet
Any potential source of contamination	50 feet
Pressure wastewater line	100 feet
Class A Municipal Reclaimed Wastewater Pressure distribution line	50 feet
Individual home septic tank	100 feet
Individual home disposal field	100 feet
Individual home seepage pit	100 feet
Privies	100 feet
Livestock	50 feet
Drainfield - standard subsurface disposal module	100 feet
Absorption module - large soil absorption system	150 - 300 feet, see IDAPA 58.01.03
Canals, streams, ditches, lakes, ponds and tanks used to store non-potable substances	50 feet
Storm water facilities disposing storm water originating off the well lot	50 feet

<u>Minimum Distances from a Public Water System Well</u>	
<u>Municipal or industrial wastewater treatment plant</u>	500 feet
<u>Reclamation and reuse of municipal and industrial wastewater sites</u>	See IDAPA 58.01.17
<u>Biosolids application site</u>	1,000 feet

(3-24-22)( )

03. **Construction Standards.** In addition to meeting the requirements of these rules, all wells ~~shall~~ **must** be constructed in accordance with IDAPA 37.03.09, “Well Construction Standards Rules,” and related rules and laws administered by the Idaho Department of Water Resources. All wells ~~shall~~ **must** comply with the drilling permit requirements of Section 42-235, Idaho Code. (3-24-22)( )

a. ~~Casing that meets the requirements set forth in Subsection 900.02 (Table 2). The use of plastic well casing for public water system wells may be considered on a case by case basis. Plastic casing shall meet or exceed ASTM Standard F480-02 and ANSI/NSF Standard 61.~~ Casing for steel pipe must meet the following requirements:

<u>STEEL PIPE</u>					
<u>SIZE</u>	<u>DIAMETER (inches)</u>		<u>THICKNESS (inches)</u>	<u>WEIGHT PER FOOT (pounds)</u>	
	<u>External</u>	<u>Internal</u>		<u>Plain Ends (calculated)</u>	<u>With Threads and Couplings (nominal)</u>
6(od)	6.625	6.065	0.280	18.97	19.18
8	8.625	7.981	0.322	28.55	29.35
10	10.750	10.020	0.365	40.48	41.85
12	12.750	12.000	0.375	49.56	51.15
14 (od)	14.000	13.250	0.375	54.57	57.00
16	16.000	15.250	0.375	62.58	
18	18.000	17.250	0.375	70.59	
20	20.000	19.250	0.500	78.60	
22	22.000	21.000	0.500	114.81	
24	24.000	23.000	0.500	125.49	
26	26.000	25.000	0.500	136.17	
28	28.000	27.000	0.500	146.85	
30	30.000	29.000	0.500	157.53	
32	32.000	31.000	0.500	168.21	

STEEL PIPE					
SIZE	DIAMETER (inches)		THICKNESS (inches)	WEIGHT PER FOOT (pounds)	
	External	Internal		Plain Ends (calculated)	With Threads and Couplings (nominal)
34	34.000	33.000	0.500	178.89	
36	36.000	35.000	0.500	189.57	

\* id = inside diameter  
od = outside diameter

(3-24-22)( )

**b.** ~~The use of plastic well casing for PWS wells may be considered on a case-by-case basis. Plastic casing must meet or exceed ASTM Standard F480, current edition, and ANSI/NSF Standard 61. Plastic casing must also meet the following requirements:~~ ( )

~~i. Have a minimum wall thickness equivalent to standard dimension ration 21. However, diameters of 8 inches or greater or deep wells may require greater thickness to meet collapse strength requirements;~~ ( )

~~ii. Must not be used at sites where permeation by hydrocarbons or degradation may occur;~~ ( )

~~iii. Must be assembled using coupling or solvent welded joints. All coupling and solvents must meet ANSI/NSF Standard 14, ASTM F480, or similar requirements; and~~ ( )

~~iv. Must not be driven.~~ ( )

~~**bc.** Public water system PWS wells shall must have no less than fifty-eight (58) feet of annular seal of not less than one and one-half (1 ½) inches thickness as measured from land surface to the bottom of the seal unless:~~ (3-24-22)( )

~~i. It can be demonstrated to the Department’s satisfaction that there is a confining layer at lesser depth that is capable of preventing unwanted water from reaching the intake zone of the well; or~~ ( )

~~ii. The best and most practical aquifer at a particular site is less than fifty-eight (58) feet deep; or;~~ ( )

~~iii. The Department specifies a different annular seal depth based on local hydrologic conditions.~~ ( )

~~iv. More stringent standards are required by applicable Rules of the Idaho Water Resources Board, referenced in Subsection 002.02.~~ (3-24-22)

~~**ed.** Specifications shall must include allowable tolerances for plumbness and alignment in accordance with AWWA Standards, incorporated by reference into these rules at Subsection 002.01, or as otherwise approved by the Department. If the well fails to meet these requirements, it may be accepted by the Department if it does not interfere with the installation or operation of the pump or uniform placement of grout.~~ (3-24-22)( )

~~**de.** Geological data shall must be collected at each pronounced change in formation and shall be recorded in the driller’s log. Supplemental data includes, but is not limited to, accurate geographical location such as latitude and longitude or GIS coordinates, and other information on accurate records of drillhole diameters and depths, assembled order of size and length of casing, screens and liners, grouting depths, formations penetrated, and water levels.~~ (3-24-22)( )

- ~~ef.~~ The owner of each well ~~shall~~ **must** retain all records pertaining to each well until the well has been properly abandoned. (3-24-22)(    )
- ~~fg.~~ Wells with intake screens ~~shall~~ **must**:
- i. Be constructed of materials resistant to damage by chemical action of ground-water or cleaning operations. (3-24-22)(    )
- ii. Have openings based on sieve analysis of formation, ~~or~~ gravel pack materials, ~~or both~~. (3-24-22)(    )
- iii. Have sufficient length and diameter to provide adequate specific capacity and aperture entrance velocity not to exceed point ~~three~~ **one** (0.~~3~~**1**) feet per second, or as otherwise approved by the Department. (3-24-22)(    )
- iv. Be installed so that the pumping water level remains above the screen under all operating conditions, or otherwise approved by the Department. Where a bottom plate or sump is utilized, it ~~shall~~ **must** be of the same material as the screen, or as otherwise approved by the Department. Where a washdown assembly, tailpipe or sump is used below the screen, it may be made of a different material than the screen. (3-24-22)(    )
- ~~gh.~~ Permanent well casing ~~shall~~ **must** be surrounded by a minimum of one and one-half (1 ½) inches of grout to the depth required by Subsection 510.03.b. ~~of these rules~~, or by the Rules of the ~~Idaho Water Resources Board~~ ~~referenced in Subsection 002.02~~ **Idaho Department of Water Resources**, whichever is greater. All casing identified in plans and specifications as temporary casing ~~shall~~ **must** be removed prior to well completion. (3-24-22)(    )
- i. Neat cement grout consisting of cement that conforms to AWWA Standard A-100, and water, with not more than six (6) gallons of water per ninety-four (94) pounds of cement, ~~shall~~ **must** be used for one and one-half (1 ½) inch ~~openings~~ **annular space**. Additives may be used to ~~enhance effectiveness~~ **increase fluidity** and are subject to approval by the ~~reviewing authority~~ **Department** and the Idaho Department of Water Resources on a case-by-case basis. (3-24-22)(    )
- ii. Bentonite grout ~~shall~~ **must** have a solids content not less than twenty-five (25) percent by weight when mixed with water and be specifically manufactured for use in sealing of well casing. Bentonite grout shall not contain weighting agents to increase solids content. Bentonite grout ~~shall~~ **must** not be used above the water table. All bentonite grout ~~shall~~ **must** be installed by positive displacement from the bottom up through a tremmie or float shoe. (3-24-22)(    )
- iii. Where a dry annular space is to be sealed, a minimum of two (2) inches on all sides of the casing ~~shall~~ **will** be required to place bentonite to depths not greater than one hundred (100) feet, using #8 mesh granular bentonite. All dry pour granular bentonite ~~shall~~ **must** be tagged at appropriate intervals to verify placement. If a bridge occurs, a tremmie pipe ~~shall~~ **must** be washed or jetted through the bridge to allow for pumping of grout. Bentonite chips ~~shall~~ **must** be of sufficient size to accommodate proper placement for the existing subsurface conditions. (3-24-22)(    )
- iv. Dry granular bentonite used in wells where a dry annular space is to be sealed with depths greater than one hundred (100) feet ~~shall~~ **will** require an annulus of at least three (3) inches on all sides of the casing, or as approved by the ~~reviewing authority~~ **Department** and the Idaho Department of Water Resources. If a bridge occurs, a tremmie pipe ~~shall~~ **must** be washed or jetted through the bridge to allow for pumping of grout. Bentonite chips ~~shall~~ **must** be of sufficient size to accommodate proper placement for the existing subsurface conditions. (3-24-22)(    )
- v. All chip bentonite seals installed through water ~~shall~~ **must** only be used in annular spaces of at least four (4) inches on all sides of the casing. If a bridge occurs, a tremmie pipe ~~shall~~ **must** be washed or jetted through the bridge to allow for pumping of grout. Bentonite chips ~~shall~~ **must** be of sufficient size to accommodate proper placement for the existing subsurface conditions. Chip bentonite seals installed through water ~~shall~~ **must** be: (3-24-22)(    )



- (1) Installed in accordance with manufacturer's specifications; or ( )
- (2) Installed by pouring chips over a one-quarter (1/4) inch mesh screen for three-eighths (3/8) inch chips to remove fines to prevent bridging at the water table; or ( )
- (3) Installed using coated pellets to retard hydration if approved by the ~~reviewing authority~~ Department and the Idaho Department of Water Resources. (3-24-22)( )

vi. Concrete may be approved on a case-by-case basis by the ~~reviewing authority~~ Department and the Idaho Department of Water Resources. Upon such approval, the approved method ~~shall~~ **must** use a six (6) sack minus one-half (1/2) inch Portland cement concrete and ~~shall~~ **must** be installed by positive displacement from the bottom up through a tremmie pipe. (3-24-22)( )

**04. Disinfection.** All tools, bits, pipe, and other materials to be inserted in the borehole ~~shall~~ **must** be cleaned and disinfected in accordance with the Well Construction Standards and permitting requirements of the ~~Idaho Water Resources Board, referenced in Subsection 002.02~~ Idaho Department of Water Resources. This applies to new well construction and repair of existing wells. (3-24-22)( )

**05. Well Completion Report ~~Required~~.** Upon completion of a well, and prior to its use as a drinking water source, the following information and data must be submitted by the ~~water system~~ PWS to the Department. The well completion report must be submitted to the Department prior to or concurrent with the submittal of the preliminary engineering report for well house construction/modification. The well completion report ~~shall~~ **must** bear the imprint of an Idaho licensed professional engineer's or an Idaho licensed professional geologist's seal that is both signed and dated by the engineer or geologist: (3-24-22)( )

- a. A copy of all well logs; ( )
- b. Results of test pumping, as specified in Subsection 510.06; ( )
- c. As constructed plans showing at least the following: ( )
  - i. Annular seal, including depth and sealant material used and method of application; ( )
  - ii. Casing perforations, results of sieve analysis used in designing screens installed in sand or gravel aquifers, gravel packs; and ( )
  - iii. Recommended pump location. ( )
- d. Other information as may be specified by the Department. ( )
- e. Sampling results for iron, manganese, corrosivity, and other secondary contaminants specified by the Department. Other monitoring requirements are specified in Subsections 510.05.e.i. through 510.05.e.iii. ( )
  - i. Community Ssystems ~~must submit~~ **must submit r** results of analysis for total coliform, inorganic chemical contaminants, organic chemicals, and radionuclide contaminants set forth in Subsections 050.01, 050.02, 050.05, 100.01, 100.03, 100.04, 100.05, and 100.06, unless analysis is waived pursuant to Subsection 100.07. (3-24-22)( )
  - ii. Non-transient Non-community Ssystems ~~must submit r~~ Results of analysis for total coliform and inorganic and organic chemical contaminants listed in Subsections 050.01, 050.02, 100.01, 100.03, 100.04, unless analysis is waived pursuant to Subsection 100.07. (3-24-22)( )
  - iii. Transient Non-community Ssystems ~~must submit~~ **must submit r** results of a total coliform, nitrite, and nitrate analysis listed in Subsections 050.01, 100.01 and 100.03. (3-24-22)( )

**06. Test Pumping.** Upon completion of a ground-water source, test pumping ~~shall~~ **must** be conducted in accordance with the following procedures to meet the specified requirements: (3-24-22)( )

**a.** The well ~~shall~~ **must** be test pumped at the desired yield (design capacity) of the well for at least twenty-four (24) consecutive hours after the drawdown trend has stabilized, as determined by the supervising engineer or geologist. Alternatively, the well may be pumped at a rate of one hundred fifty percent (150%) of the desired yield for at least six (6) continuous hours after the drawdown trend has stabilized, as determined by the supervising engineer or geologist. The field pumping equipment must be capable of maintaining a constant rate of discharge during the test. Discharge water must be piped an adequate distance to prevent recharge of the well during the test. If the well fails the test protocol, design of the ~~water system shall~~ **PWS must** be re-evaluated and submitted to the Department for approval. (3-24-22)( )

**b.** Upon completion of well development, the well ~~shall~~ **must** be tested for sand production. Fifteen (15) minutes after the start of the test pumping (at or above the design production rate), the sand content of a new well ~~shall~~ **may** not be more than five (5) parts per million. Sand production ~~shall~~ **must** be measured by a centrifugal sand sampler or other means acceptable to the Department. If sand production exceeds five (5) ppm, the well ~~shall~~ **must** be screened gravel packed, or re-developed. (3-24-22)( )

**c.** The following data ~~shall~~ **must** be provided: (3-24-22)( )

**i.** Static water level ~~in the well prior to test pumping and stabilized drawdown;~~ (3-24-22)( )

**ii.** Well yield in gpm and duration of the pump test, including a discussion of any discrepancy between the desired yield and the yield observed during the test; ( )

**iii.** Water level in the well recorded at regular intervals during pumping; ( )

**iv.** Profile of water level recovery from the pumping level projected to the original static water level. ( )

**v.** Depth at which the test pump was positioned in the well; ( )

**vi.** Test pump capacity and head characteristics; ( )

**vii.** Sand production data. ( )

**viii.** Results of analysis based on the drawdown and recovery test pertaining to aquifer properties, long term ~~sustained~~ yield, and boundary conditions affecting drawdown. (3-24-22)( )

**d.** The Department may allow the use of other pump test protocols that are generally accepted by engineering firms with specialized experience in well construction, by the well drilling industry, or as described in national standards (such as ANSI/AWWA A100-97), as long as the minimum data specified in Subsection 510.06.c. are provided. The Department welcomes more extensive data about the well, such as step-drawdown evaluations used in determining well capacity for test pumping purposes, zone of influence calculations, and any other information that may be of use in source protection activities or in routine ~~water system~~ **PWS** operations. (3-24-22)( )

**e.** Where aquifer yield, sustainability, or water quality are questionable, the Department, at its discretion, may require additional site-~~specific~~ investigations that ~~could~~ include test well construction, long-term pumping tests, or other means to demonstrate that the aquifer yield is sufficient to meet the long-term water requirements of the project. (3-24-22)( )

**07. Conversion of Non-Public Water System Wells for Public Water System Use.** Any existing well constructed for use other than as a ~~public water system~~ **PWS** source may be considered for use as a ~~public water system~~ **PWS** source on a case-by-case basis. The owner of such a well must demonstrate to the Department's satisfaction that the well site conforms to the requirements of Subsections 510.01, 510.02, and Section 512, the well is constructed in a manner that is protective of public health, and that both the quantity and quality of water produced by the well meet ~~public water system~~ **PWS** standards set forth in these rules. (3-24-22)( )

08. **Observation Monitoring Wells.** If monitoring (observation) wells are used and are intended to remain in service after completion of the water supply well, the observation wells ~~shall~~ must be constructed in accordance with the requirements for permanent wells and be protected at the upper terminal to preclude entrance of foreign materials in accordance with the "Well Construction Standard Rules," IDAPA 37.03.09. ~~See Rules of the Idaho Water Resources Board referenced in Subsection 002.02.~~ (3-24-22)(    )

09. **Well Abandonment.** ~~Any water supply well that will no longer be used must be abandoned by sealing the borehole carefully to prevent pollution of the ground water, eliminate any physical hazard, conserve aquifer yield, maintain confined head conditions in artesian wells, and prevent mixing of waters from different aquifers. The objective of proper well abandonment procedures is to restore, as far as possible, the original hydrogeologic conditions. The services of a licensed well driller are required. Instructions for abandoning various types of wells may be obtained from the Idaho Department of Water Resources. See Rules of the Idaho Water Resources Board referenced in Subsection 002.02.~~ Well decommissioning (abandonment) must be performed in accordance with Department of Water Resources requirements set forth in IDAPA 37.03.09, "Well Construction Standard Rules." (3-24-22)(    )

**511. ~~FACILITY AND DESIGN STANDARDS: WELL PUMPS, DISCHARGE PIPING, AND APPURTENANCES.~~**

01. **Sample Tap Required.** A sample tap suitable for collecting bacteriological samples ~~shall~~ must be provided as required by Subsection 501.09 on the discharge piping from every well at a point where pressure is maintained but prior to any treatment. ~~This sample tap shall be of the smooth nosed type without interior or exterior threads, shall not be of the mixing or petcock type, and shall not have a screen, aerator, or other such appurtenance. The sample tap for collecting bacteriological samples may be used for other sampling purposes.~~ In addition, threaded hose bib taps may also be used for collecting samples, other than bacteriological samples, if equipped with an appropriate backflow prevention device as may be necessary to protect the ~~public water system~~ PWS from contamination. (3-24-22)(    )

02. **Discharge Piping.** The discharge line ~~shall~~ must be equipped with the necessary valves and appurtenances to allow a well to be pumped to waste at the ~~design capacity of the~~ scour velocity of the well column via an approved air gap of no less than two (2) pipe diameters, unless otherwise approved by the Department, through an approved non-corrodible screen at a location prior to the first service connection, and ~~shall~~ must meet the following requirements: (3-24-22)(    )

- a. Be designed to minimize friction loss. ( )
- b. Have control valves and appurtenances located above the pump house floor when an above-ground discharge is provided. ( )
- c. Be protected against contamination. ( )
- d. Vertical turbine pumps ~~shall~~ must be equipped with an air release-vacuum relief valve, or equivalent, located upstream from the check valve, with exhaust/relief piping terminating in a down-turned position at least eighteen (18) inches above the floor and covered with a twenty-four (24) mesh corrosion resistant screen. (3-24-22)(    )
- e. Have all exposed piping, valves and appurtenances protected against physical damage and freezing. ( )
- f. Be properly anchored to prevent movement, and protected against surge or water hammer. ( )
- g. The pump to waste discharge piping ~~shall~~ must be valved to ensure that other ~~system~~ PWS components that ~~could~~ may be negatively affected by the quality of the discharged water are not pressurized by the water that is being pumped to waste. (3-24-22)(    )
- h. Where two (2) or more wells are connected to a common well house, the discharge piping ~~shall~~

~~must~~ be designed to ensure that each well can be pumped to waste independently without affecting the ability of the other well or wells to pressurize the ~~system~~ PWS. (3-24-22)( )

03. **Pressure Gauge Required.** A pressure gauge ~~shall~~ must be provided on ~~all~~ discharge piping. (3-24-22)( )

04. **Flow Meter and Check Valve.** Unless otherwise approved by the Department ~~based on documentation provided by the design engineer~~, an instantaneous and totalizing flow meter equipped with nonvolatile memory ~~shall~~ must be installed on the discharge line of each well in accordance with the manufacturer's specifications. Meters installed on ~~systems~~ PWSs with variable frequency drives ~~shall~~ must be capable of accurately reading the full range of flow rates. An accessible check valve, which is not located in the pump column, ~~shall~~ must be installed in the discharge line of each well between the pump and the shut-off valve. Additional check valves ~~shall~~ must be located in the pump column as necessary. (3-24-22)( )

05. **Well Vent.** All wells ~~shall~~ must be vented, unless it can be demonstrated that the drawdown under maximum pumping conditions will not exceed ten (10) feet. (3-24-22)( )

a. For wells not in a pump house, the open end of the vent ~~shall~~ must be screened with a twenty-four (24) mesh or similar non-corrodible screen and terminated downward at least eighteen (18) inches above the final ground surface. (3-24-22)( )

b. If the well is in a pump house, the open end of the vent ~~shall~~ must be screened with a twenty-four (24) mesh or similar non-corrodible screen and must terminate downward at least twelve (12) inches above the pump house floor. (3-24-22)( )

c. Artesian wells equipped with pumps may need venting or an air valve as determined by the Department. ( )

06. **Casings and Sanitary Well Caps.** The following requirements apply to well casings and sanitary caps: ( )

a. Casings ~~shall~~ must extend at least eighteen (18) inches above the final ground surface. If the well is located within a pump house, casings ~~shall~~ must extend least twelve (12) inches above the pump house floor. For a well located in an area subject to flooding, the Department may require an extension of the casing above the one hundred (100) year or highest known flood level, whichever is higher. (3-24-22)( )

b. Wells ~~shall~~ must be cased and provided with an approved cap in such a manner that ~~surface water contamination~~ cannot enter the well. (3-24-22)( )

c. For community ~~water systems~~ PWSs, a permanent means for measuring water level within the casing must be provided. For other ~~water systems~~ PWSs, a temporary means to measure water levels ~~should~~ may be made available. All equipment required for conducting water level measurements ~~shall~~ must be purchased and made available to the ~~water system~~ PWS operator at the time the well is put into service. Where pneumatic or electronic water level measuring equipment is used, it ~~shall~~ must be made using corrosion resistant materials attached firmly to the drop pipe or pump column and in such a manner as to prevent entrance of foreign materials. (3-24-22)( )

07. **Well Houses.** For regulatory purposes, a well house is considered a pump house as defined in Section 003. Well houses must meet the requirements for pump houses as set forth in Section 541. All above ground discharge piping ~~shall~~ must be contained in a well house or otherwise protected from freezing. (3-24-22)( )

08. **Pitless Adapters and Units.** ~~Pitless adapters or pitless units:~~ (3-24-22)( )

a. ~~Shall be of the type m~~Marked approved by the National Sanitation Foundation or Pitless Adapter Division of the Water Systems Council. (3-24-22)( )

b. ~~Shall be d~~Designed, constructed and installed to be watertight including the cap, cover, casing extension and other attachments. (3-24-22)( )

c. ~~Shall be f~~Field tested for leaks before being put into service. The procedure outlined in “Manual of Individual and Non-Public Water Supply Systems,” referenced in Subsection 002.02, or other procedure approved by the Department ~~shall~~ Must be followed. (3-24-22)(    )

d. ~~Pitless adapters with a two (2) inch or smaller discharge line shall be p~~If the discharge line is two (2) inches or smaller, be provided with a swing joint outside the pitless adapter unit to reduce strain, deformation, and possible leakage of the pitless seal caused by settling soils in the trench. The orientation of swing joints ~~shall~~ must be such that any settling that occurs will tighten the threads. The hole in the casing ~~shall~~ must be cut with a saw rather than a torch with an opening large enough to allow seating of gaskets. (3-24-22)(    )

e. ~~Shall be p~~Provided with a contamination-proof entrance connection for electrical cable. (3-24-22)(    )

f. ~~In the case of p~~Pitless adapters: (3-24-22)(    )

i. Threaded adapters ~~shall~~ must be installed by drilling a hole not more than one quarter (1/4) inch larger than the outer diameter of the pitless shank. No torch-cut holes ~~shall~~ will be accepted. The orientation of swing joints ~~shall~~ must be such that any settling that occurs will tighten the threads. (3-24-22)(    )

ii. The only field welding permitted will be that needed to connect a pitless adapter to the casing. ( )

g. ~~In the case of p~~Pitless units must be: (3-24-22)(    )

i. ~~Shall be s~~Shop-fabricated from the point of connection with the well casing to the unit cap or cover. (3-24-22)(    )

ii. ~~Shall be e~~Constructed of materials and weight at least equivalent to and compatible with the well casing. (3-24-22)(    )

iii. ~~Shall be t~~Threaded or welded to the well casing. Threaded units ~~shall~~ must be installed by drilling a hole not more than one quarter (1/4) inch larger than the outer diameter of the pitless shank. No torch-cut holes ~~shall~~ will be accepted. If the connection to the casing is by field weld, the shop-assembled unit must be designed specifically for field welding to the casing. (3-24-22)(    )

iv. ~~Shall t~~Terminate at least eighteen (18) inches above final ground elevation ~~or three (3) feet above the 100 year flood level or the highest known flood elevation, whichever is higher, or as otherwise approved by the Department. For a well located in an area subject to flooding, the Department may require an extension of the casing above the one hundred (100) year or highest known flood level, whichever is higher.~~ (3-24-22)(    )

v. ~~Shall be p~~Provided with access to disinfect the well. (3-24-22)(    )

vi. ~~Shall have f~~Field connection ~~ed~~ to the lateral discharge from the pitless unit of threaded, flanged, or mechanical joint connection. (3-24-22)(    )

h. After installation of a pitless adapter or unit, the disturbed well seal ~~shall~~ must be repaired or replaced to meet original seal specifications unless otherwise ~~proposed by the design engineer and~~ approved by the Department. The engineering proposal ~~shall~~ must ensure that the material surrounding the final seal is moisture controlled and compacted such that it equals or exceeds the characteristics of the native soil prior to being disturbed. (3-24-22)(    )

**09. Wells Not Allowed in Pits.** Wells ~~shall~~ must not be located in pits. Exceptions to this requirement will be granted by the Department if the well was constructed prior to November 5, 1964, and the installation is constructed or reconstructed in accordance with the requirements of the Department to provide watertight construction of pit walls and floors, floor drains and acceptable pit covers. (3-24-22)(    )

10. **Discharge Pumps.** Discharge pumps ~~shall be~~ are subject to the following requirements: (3-24-22)( )
- a. Line shaft pumps ~~shall~~ must: (3-24-22)( )
    - i. Have the casing firmly connected to the pump structure or have the casing inserted into a recess extending at least one-half (1/2) inch into the pump base. ( )
    - ii. Have the pump foundation and base designed to prevent water from coming into contact with the joint. ( )
    - iii. Use lubricants that meet ANSI/NSF Standard 61. ( )
  - b. ~~When a s~~Submersible pumps ~~is used~~: (3-24-22)( )
    - i. The top of the casing ~~shall~~ must be effectively sealed against the entrance of water under all conditions of vibration or movement of conductors or cables. (3-24-22)( )
    - ii. The electrical cable ~~shall~~ must be firmly attached to the drop pipe at twenty-one (21) foot intervals or less, or at each coupling or joint. (3-24-22)( )

**512. ~~FACILITY AND DESIGN STANDARDS- WELL LOT.~~**

A well lot ~~shall~~ must be provided for wells constructed after November 1, 1977. The well lot ~~shall~~ must be owned in fee simple by the supplier of water or controlled by lease or easement with a term of not less than the useful life of the well and be large enough to provide a minimum distance of fifty (50) feet between the well and the nearest property line. (3-24-22)( )

**01. ~~Use of Chemicals on the Well Lot.~~** No pesticides, herbicides, or fertilizers ~~shall~~ may be applied to a well lot without prior approval from the Department. (3-24-22)( )

**02. ~~Storage of Hazardous Materials on the Well Lot.~~** No pesticides, herbicides, fertilizers, portable containers of petroleum products, or other materials known to be toxic or hazardous ~~shall~~ may be stored on a well lot, except that: (3-24-22)( )

a. An internal combustion engine to drive either a generator for emergency standby power or a pump to provide fire flows, and an associated fuel tank, may be placed on the well lot. ( )

b. A propane or natural gas powered generator is preferable to reduce risk of fuel spillage. ( )

c. If a diesel or gasoline-fueled engine is used, the fuel tank and connecting piping must be approved by the Underwriter's Laboratory, Inc., double-walled, meet the requirements of the local fire jurisdiction, and include both spill prevention and overfill protection features. The tank must be above ground and may be contained within the structural base of the generator unit. A spill containment structure must surround all fuel tanks and be sized to contain at least one hundred ten percent (110%) of the fuel tank volume. The Department may require additional containment capacity in settings where accumulation of snow, ice, or rain water may be expected to diminish the usable capacity of the structure. A licensed ~~water system~~ PWS operator ~~shall~~ must be present during filling of the tank following a period of usage, or during periodic extraction and replacement of outdated fuel. (3-24-22)( )

d. ~~Should~~ If the internal combustion engine ~~be~~ is located within the pump house, the floor of the pump house ~~shall~~ must be constructed so as to contain all petroleum drips and spills so that they will not be able to reach the floor drain(s). Engine exhaust ~~shall~~ must be directly discharged outside the pump house. (3-24-22)( )

~~e. A spill containment structure shall surround all fuel tanks and be sized to contain at least one hundred ten percent (110%) of the fuel tank volume. The Department may require additional containment capacity in settings where accumulation of snow, ice, or rain water could be expected to diminish the usable capacity of the structure. (3-24-22)~~

~~03. Location of Hydrants.~~ Hydrants of the frost free type shall be placed in the buried piping system at a minimum of five (5) feet away from the well casing to prevent drain water from accumulating and compromising the grout seal surrounding the well casing. (3-24-22)(    )

**043. Parking Lots and Vehicle Storage.** No public parking or vehicle storage shall ~~may~~ be allowed on the well lot, except that operation/maintenance vehicles may be temporary parked on the well lot during the normal course of business. (3-24-22)(    )

**513. FACILITY AND DESIGN STANDARDS: NUMBER OF GROUND-WATER SOURCES REQUIRED – EXISTING SYSTEMS.**

Existing community ~~water systems~~ PWSs served by ground-water and intending to serve more than twenty-five (25) connections or equivalent dwelling units are subject to the following requirements for the number of ground-water sources required. (3-24-22)(    )

**01. Existing System with All Sources Constructed Prior to July 1, 1985.** A community ~~water system~~ PWS served by ground-water and with all existing sources constructed prior to July 1, 1985 will be required to comply with Subsection 501.17 upon substantially modifying the ~~system PWS~~ after July 2002. (3-24-22)(    )

**02. Existing System with Any Sources Constructed After July 1, 1985.** A community ~~water system~~ PWS served by ground-water with any sources constructed after July 1, 1985 is required to comply with Subsection 501.17 when a modification is made to the ~~system PWS~~ which increases the population served or number of service connections, increases the length of transmission and distribution water mains, or increases the peak or average water demand. (3-24-22)(    )

**514. FACILITY AND DESIGN STANDARDS: SPRING SOURCES.**

Written approval by the Department is required before water from any new or reconstructed spring source may be served to the public. For new spring sources, the Department shall ~~will~~ require a site evaluation report containing applicable required information listed in Subsection 510.01. This information includes, but is not limited to, the following: an evaluation of the potability and quality of anticipated spring water; an estimate of hydrologic and geologic properties of the aquifer; and a description of potential sources of contamination within five hundred (500) feet of the spring. Any supplier of water for a ~~public water system~~ PWS served by one (1) or more springs shall ~~must~~ ensure that the following requirements are met: (3-24-22)(    )

**01. Protection of the Spring.** Springs shall ~~must~~ be housed in a permanent structure and protected from contamination including the entry of surface water, animals, and dust. (3-24-22)(    )

**02. Spring Box or Combined Spring Box/Finished Water Storage Design.** To facilitate efficient design and review of spring box or combined spring box/finished water storage designs, these site-specific designs shall ~~should~~ ~~must~~ be coordinated in advance with the Department. Specific issues to be addressed are: (3-24-22)(    )

a. The inlet shall ~~must~~ be screened as determined by the Department and located above the floor of the collection chamber. (3-24-22)(    )

b. Unless otherwise approved by the Department ~~based on documentation provided by the design engineer~~, the spring box or combined spring box/finished water storage tank shall ~~must~~ meet the applicable design requirements of Section 544 - Facility and Design Standards: General Design of Finished Water Storage. (3-24-22)(    )

**03. Sample Tap ~~Required~~.** A sample tap suitable for collecting bacteriological samples shall ~~must~~ be provided ~~as required by Subsection 501.09. This sample tap shall be of the smooth nosed type without interior or exterior threads, shall not be of the mixing or petcock type, and shall not have a screen, aerator, or other such appurtenance. The sample tap for collecting bacteriological samples may be used for other sampling purposes.~~ In addition, threaded hose bib taps may also be used for collecting samples, other than bacteriological samples, if equipped with an appropriate backflow prevention device as may be necessary to protect the ~~public water system~~ PWS from contamination. (3-24-22)(    )

**04. Flow Measurement.** A flow meter or other flow measuring device shall ~~must~~ be provided.

(3-24-22)( )

05. **Protected Area.** The entire area within a one hundred (100) foot radius of the spring box and collection piping shall must be owned by the supplier of water or controlled by a long term lease, ~~fenced~~ secured to prevent trespass ~~of or~~ livestock and void of buildings, dwellings and any potential sources of contamination. Surface water ~~shall must~~ be diverted from this area. (3-24-22)( )

**515. ~~FACILITY AND DESIGN STANDARDS: SURFACE SOURCES AND GROUND-WATER SOURCES UNDER THE DIRECT INFLUENCE OF SURFACE WATER.~~**

Written approval by the Department is required before water from any new surface source or ground-water source that is under the direct influence of surface water may be served to the public. Infiltration collection lines or galleries are considered ground-water under the direct influence of surface water unless demonstrated otherwise. Infiltration galleries that are not directly influenced by surface water ~~shall must~~ meet the requirements of Section 514. The area around infiltration lines ~~shall must~~ be under the control of the water purveyor for a distance acceptable to the Department. (3-24-22)( )

01. **Intake Structures.** Design of intake structures ~~shall must~~ provide for: (3-24-22)( )
- a. Withdrawal of water from more than one (1) level if quality varies with depth. ( )
  - b. Separate facilities for release of less desirable water held in storage. ( )
  - c. Where frazil ice may be a problem, holding the velocity of flow into the intake structure to a minimum, generally not to exceed point five (0.5) feet per second. Frazil ice is made up of randomly distributed ice crystals that are formed in flowing water that has cooled below thirty-two (32) degrees Fahrenheit and is prevented from forming into ice sheets by the movement of the water. ( )
  - d. Inspection manholes every one thousand (1000) feet for pipe sizes large enough to permit visual inspection. ( )
  - e. Cleaning the intake line as needed. ( )
  - f. Adequate protection against rupture by dragging anchors, ice, or other hazards. ( )
  - g. Ports located above the bottom of the stream, lake or impoundment, but at sufficient depth to be kept submerged at low water levels. ( )
  - h. Where shore wells are not provided, a diversion device capable of keeping large quantities of fish or debris from entering an intake structure. ( )
  - i. If necessary, provisions ~~shall must~~ be made in the intake structure to control the influx of nuisance aquatic organisms. Specific control methods must be approved by the ~~reviewing authority~~ Department. (3-24-22)( )
  - j. When buried surface water collectors are used, sufficient intake opening area must be provided to minimize inlet headloss. Particular attention ~~shall must~~ be given to the selection of backfill material in relation to the collector pipe slot size and gradation of the native material over the collector system. (3-24-22)( )
02. **Raw Water Pumps.** Raw water pumping wells ~~shall must~~: (3-24-22)( )
- a. Have motors and electrical controls located above grade (except for submersible pumps), and protected from flooding as required by the reviewing authority. ( )
  - b. Be accessible and designed to prevent flotation. ( )
  - c. Be equipped with removable or traveling screens before the pump suction well. ( )



d. Provide for introduction of chlorine or other chemicals in the raw water transmission main if necessary for quality control. ( )

e. Where practical, have intake valves and provisions for back flushing or cleaning by a mechanical device and testing for leaks. ( )

f. Have provisions for withstanding surges where necessary. ( )

03. **Off-stream Raw Water Storage.** An off-stream raw water storage reservoir is a facility into which water is pumped during periods of good quality and high stream flow for future release to treatment facilities. These off-stream raw water storage reservoirs ~~shall~~ must be constructed to assure that: (3-24-22)( )

a. Water quality is protected by controlling runoff into the reservoir. ( )

b. Dikes are structurally sound and protected against wave action and erosion. ( )

c. Intake structures and devices meet requirements of Subsection 515.01. ( )

d. Point of influent flow is separated from the point of withdrawal. ( )

e. Separate pipes are provided for influent to and effluent from the reservoir. ( )

04. **Reservoirs.** Impoundments and reservoirs ~~shall~~ must provide, where applicable: (3-24-22)( )

a. Removal of brush and trees to high water elevation. ( )

b. Protection from floods during construction. (3-24-22)( )

c. ~~Abandonment of all w~~Wells which will be inundated; by the reservoir must be abandoned in accordance with requirements of the Idaho Department of Water Resources. See Rules of the Idaho ~~Water Resources Board~~ Department of Water Resources referenced in Subsection 002.02. (3-24-22)( )

516. -- 517. (RESERVED)

518. ~~FACILITY AND DESIGN STANDARDS:~~ **ADDITIONAL DESIGN CRITERIA FOR SURFACE WATER TREATMENT SOURCES.**

Performance criteria for surface water treatment facilities are ~~specified in National Primary Drinking Water Regulations, as set forth in Sections 300, 301, and 310 of these rules.~~ Surface water treatment systems must comply with applicable general design requirements in Section 503. In addition, the following design requirements apply specifically to surface water treatment facilities: (3-24-22)( )

01. **Engineering Design Requirements.** The ~~system shall~~ PWS must ensure that filtration and disinfection facilities for surface water or ground-water under the directly influenced ~~by of~~ surface water ~~sources~~ are designed, constructed and operated in accordance with all applicable engineering practices designated by the Department. The design of the water treatment plant must consider the worst raw water quality conditions that are likely to occur during the life of the facility. (3-24-22)( )

02. **Removal of Pathogens.** Filtration facilities (excluding disinfection) ~~shall~~ must be designed, constructed and operated to achieve at least two (2) log removal of Giardia lamblia cysts, two (2) log removal of Cryptosporidium oocysts, and one (1) log removal of viruses, except as allowed under Subsection 518.09.b. (3-24-22)( )

03. **Disinfection.** Disinfection facilities ~~shall~~ must be designed, constructed and operated so as to achieve at least point five zero (0.50) log inactivation of Giardia lamblia cysts; and (3-24-22)( )

a. Two (2) log inactivation of viruses if using conventional and slow sand filtration technology; or ( )

- b. Three (3) log inactivation of viruses if using direct and diatomaceous earth filtration technology; or ( )
- c. Four (4) log inactivation of viruses if using alternate filtration technology. ( )
- d. Four (4) log inactivation of viruses if filtration treatment is not used. ( )
- 04. Enhanced Disinfection.** Higher levels of disinfection than specified under Subsection 518.03 may be required by the Department ~~in order~~ to provide adequate protection against Giardia lamblia and viruses. (3-24-22)( )
- 05. Filter to Waste.** For plants constructed after December 31, 1992, each filter unit must be capable of filter to waste. For plants constructed prior to December 31, 1992, each filter unit must be capable of filter to waste unless the ~~system~~ PWS demonstrates through continuous turbidity monitoring or other means acceptable to the Department that water quality is not adversely affected following filter backwashing, cleaning or media replacement. (3-24-22)( )
- 06. Continuous Turbidity Monitoring.** For conventional, direct, membrane, and diatomaceous earth filtration technology, equipment must be provided to continuously measure the turbidity of each filter unit. ( )
- 07. Continuous Monitoring of Disinfectant.** Equipment must be provided and operated for continuous measurement of disinfectant residual prior to entry to the distribution system, unless the ~~system~~ PWS serves fewer than three thousand three hundred (3,300) people. (3-24-22)( )
- 08. Continuous Operation Required.** Diatomaceous earth filtration facilities ~~shall~~ must include an alternate power source with automatic startup and alarm, or be designed in a manner to ensure continuous operation. (3-24-22)( )
- 09. Acceptable Technology.** The purveyor ~~shall~~ must select a filtration technology acceptable to the Department. (3-24-22)( )
- a. Conventional, direct, ~~membrane~~, slow sand, diatomaceous earth, and membrane filtration technologies are generally acceptable to the Department on a case-by-case basis. (3-24-22)( )
- b. Alternate filtration technologies may be acceptable if the purveyor demonstrates all of the following to the satisfaction of the Department: ( )
- i. That the filtration technology: ( )
- (1) Is certified and listed by the National Sanitation Foundation (NSF) under Standard 53, Drinking Water Treatment Units - Health Effects, as achieving the NSF criteria for cyst reduction; or ( )
- (2) Removes at least ninety-nine percent (99%) (two (2) logs) of Cryptosporidium oocysts or surrogate particles and removes or inactivates at least ninety-nine percent (99%) (two (2) logs) of Giardia lamblia cysts or Giardia lamblia cyst surrogate particles in a challenge study acceptable to the Department. ( )
- ii. Based on field studies or other means acceptable to the Department, it must be demonstrated that the filtration technology has the following capabilities: ( )
- (1) In combination with disinfection treatment, consistently achieves at least ninety-nine percent (99%) (two (2) logs) removal of Cryptosporidium oocysts or surrogate particles and at least ninety-nine and nine tenths percent (99.9%) (three (3) logs) removal or inactivation of Giardia lamblia cysts and ninety-nine and ninety-nine hundredths percent (99.99%) (four (4) logs) removal or inactivation of viruses; and ( )
- (2) Meets the turbidity performance requirements of 40 CFR 141.73 (b). ( )

**10. Pilot Studies.** The ~~system shall~~ **PWS must** conduct pilot studies in accordance with the following requirements and in accordance with Subsection 501.19 for all proposed filtration facilities and structural modifications to existing filtration facilities, unless the Department modifies the requirements in writing: (3-24-22)( )

**a.** The ~~system shall~~ **PWS must** obtain the Department's approval of the pilot study plan before the pilot filter is constructed and before the pilot study is undertaken. ( )

**b.** The design and operation of the pilot study ~~shall~~ **must** be overseen by an Idaho licensed professional engineer. (3-24-22)( )

**c.** The ~~system's~~ **PWS's** pilot study plan ~~shall~~ **must** identify at a minimum: (3-24-22)( )

i. The objectives of the pilot study; ( )

ii. Pilot filter design; ( )

iii. Water quality and operational parameters to monitor; ( )

iv. Amount of data to collect; and ( )

v. Qualifications of the pilot plant operator. ( )

**d.** The ~~system shall~~ **PWS must** ensure that the pilot study is: (3-24-22)( )

i. Conducted to simulate conditions of the proposed full-scale design; ( )

ii. Conducted for at least twelve (12) consecutive months or for a shorter period upon approval by the Department; ( )

iii. Conducted to evaluate the reliability of the treatment system to achieve applicable water quality treatment criteria specified for filtration systems in 40 CFR 141.72 and 40 CFR 141.73; and ( )

iv. Designed and operated in accordance with good engineering practices documented in references acceptable to the Department. ( )

**11. Redundant Disinfection.** Surface water systems constructed after July 1, 1985, are required to install redundant disinfection components or maintain a backup unit on site as required to maintain constant application of disinfectant whenever water is being delivered to the distribution system. ( )

**519. ~~FACILITY AND DESIGN STANDARDS: SURFACE WATER TREATMENT; DESIGN STANDARDS FOR MICROSCREENING.~~**

A microscreen may be used to reduce nuisance organisms and organic loadings. It ~~shall~~ **may** not be used in place of filtration or coagulation in the preparation of water for filtration. (3-24-22)( )

**01. Design Considerations.** The following ~~shall~~ **must** be taken into account during design: (3-24-22)( )

**a.** ~~The n~~ Nature of the suspended matter to be removed. (3-24-22)( )

**b.** ~~The e~~ Corrosiveness of the water. (3-24-22)( )

**c.** ~~The e~~ Effect of chlorination, when required as pre-treatment. (3-24-22)( )

**d.** ~~The d~~ Duplication of units for continuous operation during equipment maintenance. (3-24-22)( )

- e. Automated backflushing operation when used in conjunction with microfiltration treatment. ( )
- 02. **Design Requirements.** Design ~~shall~~ must provide the following: (3-24-22)( )

  - a. A durable, corrosion-resistant screen. ( )
  - b. A by-pass arrangement. ( )
  - c. Protection against back-siphonage when potable water is used for washing. ( )
  - d. Proper disposal of water used to wash the microscreen. ( )

**520. ~~FACILITY AND DESIGN STANDARDS:~~ SURFACE WATER TREATMENT: CLARIFICATION PROCESSES.**

Treatment facilities designed to include clarification for processing surface water ~~shall~~ must meet the following requirements: (3-24-22)( )

**01. Two Units Required.** A minimum of two (2) units ~~for redundancy shall~~ each must be provided for flocculation ~~and~~, sedimentation, and solids removal such that plant design capacity can be maintained with any component out of service for maintenance or repairs. Drains and pumps must be sized to allow dewatering in a reasonable period of time. (3-24-22)( )

**02. Parallel or Serial Operation.** The units ~~shall~~ must be capable of being operated either in series or parallel where softening is performed. (3-24-22)( )

~~03. Independent Units. The units shall be constructed in such a way that each can be taken out of service without disrupting operation, and with drains or pumps sized to allow dewatering in a reasonable period of time. (3-24-22)~~

**043. Manual Start-Up.** The units ~~shall~~ must be started manually following shutdown. (3-24-22)( )

**054. Pre-Treatment.** Waters exhibiting high turbidity may require pretreatment, usually sedimentation with or without the addition of coagulation chemicals. When presedimentation is provided, the following requirements must be met: ( )

a. Incoming water ~~shall~~ must be dispersed across the full width of the line of travel as quickly as possible. Short circuiting must be prevented. (3-24-22)( )

b. Provisions for bypassing pre-sedimentation basins ~~shall~~ must be included. (3-24-22)( )

c. The need for redundant pretreatment components ~~shall~~ must be evaluated according to the type and necessity of the pretreatment. (3-24-22)( )

**065. Rapid Mix.** Unless otherwise approved by the Department ~~based on documentation provided by the design engineer~~, a rapid mix device or chamber is required prior to flocculation, clarification, sedimentation, and settler units. The need for redundant rapid mix components ~~shall~~ must be evaluated. Rapid mix ~~shall mean is~~ the rapid dispersion of chemicals throughout the water to be treated, usually by violent agitation. The engineer ~~shall~~ must submit the design basis for the velocity gradient (G value) selected, considering the chemicals to be added and water temperature, color and other related water quality parameters. Basins or mixing chambers ~~shall~~ must be equipped with devices capable of providing adequate mixing for all treatment flow rates. (3-24-22)( )

**076. Flocculation.** Flocculation ~~shall mean is~~ the gathering together of fine particles in water by gentle mixing after the addition of coagulant chemicals to form larger particles: and must include: (3-24-22)( )

a. Basin inlet and outlet design ~~shall~~ must minimize short-circuiting and destruction of floc. A drain,

pumps, or a combination of both drain and pumps ~~shall~~ must be provided to accomplish dewatering and sludge removal. (3-24-22)( )

b. The flow-through velocity ~~shall~~ must not be less than one-half (0.5) nor greater than one and one-half (1.5) feet per minute with a detention time for floc formation of at least thirty (30) minutes unless otherwise approved by the Department. (3-24-22)( )

c. Agitators ~~shall~~ must be driven by variable speed drives. (3-24-22)( )

d. Flocculation and sedimentation basins ~~shall~~ must be as close together as possible. The velocity of flocculated water through pipes or conduits to settling basins ~~shall~~ must be not less than one-half (0.5) nor greater than one and one-half (1.5) feet per second. Allowances must be made to minimize turbulence at bends and changes in direction. (3-24-22)( )

**087.** **Small Systems May Use Baffling.** Baffling may be used to provide for flocculation in small treatment plants upon approval by the Department. (3-24-22)( )

**098.** **Sedimentation Units.** The following criteria apply to conventional sedimentation units: ( )

a. A minimum of two (2) hours of settling time ~~shall~~ must be provided following flocculation unless adequate settling in less time can be demonstrated. (3-24-22)( )

b. Inlets ~~shall~~ must be designed to distribute the water equally and at uniform velocities. (3-24-22)( )

c. Outlet weirs or submerged orifices ~~shall~~ must maintain velocities suitable for settling in the basin and minimize short-circuiting. Outlet weirs ~~shall~~ must be designed so that the rate of flow over the outlet weirs or through the submerged orifices ~~shall~~ will not exceed twenty-thousand (20,000) gallons per day per foot of the outlet launder. The entrance velocity through the submerged orifices ~~shall~~ must not exceed one-half (0.5) feet per second. (3-24-22)( )

d. The velocity through settling basins ~~shall~~ must not exceed one-half (0.5) feet per minute. The basins must be designed to minimize short-circuiting. Fixed or adjustable baffles must be provided as necessary to achieve the maximum potential for clarification. (3-24-22)( )

e. When an overflow weir or pipe is provided the overflow ~~shall~~ must discharge by gravity with a free fall at a location where the discharge will be noted. (3-24-22)( )

f. Adequate sludge collection equipment that ensures proper basin coverage ~~shall~~ must be provided and basins must be provided with a means for dewatering. (3-24-22)( )

g. Flushing lines or hydrants ~~shall~~ must be provided and must be equipped with backflow prevention devices acceptable ~~to the Department~~ under Section 543. (3-24-22)( )

h. Sludge removal design ~~shall~~ must provide that sludge pipes are not less than three (3) inches in diameter and arranged so as to facilitate cleaning. Entrance to sludge withdrawal piping ~~shall~~ must be designed to prevent clogging. Provision ~~shall~~ must be made for the operator to observe and sample sludge being withdrawn from the unit. (3-24-22)( )

i. Sludge ~~shall~~ must be disposed of in accordance with applicable regulations, as set forth in Section 540. (3-24-22)( )

**409.** **Solids Contact Clarifiers.** Solids contact clarifiers are generally acceptable for combined softening and clarification where water characteristics, especially temperature, do not fluctuate rapidly, flow rates are uniform and operation is continuous. A minimum of two (2) units are required for surface water treatment as required in Subsection 520.01. ( )

- a. Chemicals ~~shall~~ **must** be applied at such points and by such means as to ensure satisfactory mixing of the chemicals with the water. (3-24-22)( )
- b. Unless otherwise approved by the Department ~~based on documentation provided by the design engineer~~, a rapid mix device or chamber ahead of the solids contact clarifier is required to assure proper mixing of the chemicals applied. Mixing devices employed ~~shall~~ **must** be constructed so as to provide good mixing of the raw water with previously formed sludge particles and prevent deposition of solids in the mixing zone. (3-24-22)( )
- c. Flocculation equipment ~~shall~~ **must** be adjustable as to speed, pitch, or a combination of speed and pitch and must provide for coagulation in a separate chamber or baffled zone within the unit. (3-24-22)( )
- d. Sludge removal design ~~shall~~ **must** provide that sludge pipes are not less than three (3) inches in diameter and arranged so as to facilitate cleaning. Entrance to sludge withdrawal piping ~~shall~~ **must** be designed to prevent clogging. Provision ~~shall~~ **must** be made for the operator to observe and sample sludge being withdrawn from the unit. (3-24-22)( )
- e. Blow-off outlets and drains must terminate and discharge at places acceptable to the Department in regard to control of potential cross connections. Cross connection control must be included for the potable water lines used to backflush sludge lines. ( )
- f. The detention time ~~shall~~ **must** be established on the basis of the raw water characteristics and other local conditions that affect the operation of the unit. The Department may request data to support decisions made with respect to detention times. ~~The Department may alter detention time requirements.~~ (3-24-22)( )
- g. Controls for sludge withdrawal which minimize water losses ~~shall~~ **must** be provided. (3-24-22)( )
- h. Unless otherwise approved by the Department ~~based on documentation provided by the design engineer~~, weirs ~~shall~~ **must** be adjustable and at least equivalent in length to the perimeter of the tank. Weir loading ~~shall~~ **must** not exceed ten (10) gallons per minute per foot of weir length for units used as clarifiers or twenty (20) gallons per minute per foot of weir length for units used for softening. Where orifices are used, the loading rates per foot of launder rates ~~shall~~ **must** be equivalent to weir loadings. Either ~~shall~~ **must** produce uniform rising rates over the entire area of the tank. (3-24-22)( )
- i. Upflow rates ~~shall~~ **must** not exceed one (1) gallon per minute per square foot of area at the sludge separation line for units used as clarifiers or one and three-quarters (1.75) gallons per minute per foot of area at the slurry separation line for units used as softeners. The Department may consider higher rates if supporting data is provided. (3-24-22)( )
- 140. Settler Units.** Settler units consisting of variously shaped tubes or plates installed in multiple layers and at an angle to the flow may be used for sedimentation following flocculation. ( )
- a. Inlets and outlets ~~shall~~ **must** be designed to maintain velocities suitable for settling in the basin and to minimize short-circuiting. Plate units ~~shall~~ **must** be designed to minimize unequal distribution across the units. (3-24-22)( )
- b. Drain piping from the settler units must be sized to facilitate a quick flush of the settler units and to prevent flooding other portions of the plant. ( )
- c. Although most units will be located within a plant, outdoor installations must provide sufficient freeboard above the top of settlers to prevent freezing in the units. ( )
- d. Water ~~shall~~ **must** be applied to tube settlers at a maximum rate of two (2) gallons per minute per square foot of cross-sectional area for tube settlers, unless higher rates are justified through pilot plant or in-plant demonstration studies. ~~See in accordance with Subsection 501.19 for general information on conducting pilot studies.~~ (3-24-22)( )

e. Water ~~shall~~ must be applied to plate settlers at a maximum plate loading rate of one-half (0.5) gallons per minute per square foot, based on eighty (80) percent of the projected horizontal plate area. (3-24-22)( )

f. Flushing lines ~~shall~~ must be provided to facilitate maintenance and must be properly protected against backflow or back siphonage. (3-24-22)( )

**121. High Rate Clarification.** High rate clarification processes may be approved upon demonstrating satisfactory performance under on-site pilot ~~plant conditions~~ in accordance with Subsection 501.19 or documentation of full scale plant operation with similar raw water quality conditions. Reductions in detention times ~~and/or~~ increases in weir loading rates ~~shall~~ must be justified. ~~See Subsection 501.19 for general information on conducting pilot studies.~~ Examples of such processes include dissolved air flotation, ballasted flocculation, contact flocculation/clarification, and helical upflow. (3-24-22)( )

**521. ~~FACILITY AND DESIGN STANDARDS: SURFACE WATER TREATMENT: FILTRATION USING RAPID RATE GRAVITY FILTERS.~~**

**01. Pretreatment.** The use of rapid rate gravity filters ~~shall~~ requires pretreatment in the form of coagulation, flocculation, and sedimentation. (3-24-22)( )

**02. Rate of Filtration.** The filter rate must be proposed and justified by the design engineer ~~to the satisfaction of in~~ the Department ~~prior to the preparation of final plans and specifications~~ approved PER. (3-24-22)( )

**03. Number of Units.** A minimum of two (2) units for redundancy ~~shall~~ must be provided for filtration such that plant design capacity can be maintained with any component out of service for maintenance or repairs. Where declining rate filtration is provided, the variable aspect of filtration rates, and the number of filters must be considered when determining the design capacity for the filters. (3-24-22)( )

**04. Structure and Hydraulics.** The filter structure ~~shall~~ must be designed to provide for: (3-24-22)( )

a. ~~Vertical walls within the filter.~~ There ~~shall~~ may be no protrusion of the vertical filter walls into the filter media. (3-24-22)( )

b. Cover by superstructure with sufficient headroom to permit normal inspection and operation. ( )

c. Minimum depth of filter box of eight and one-half (8.5) feet. ( )

d. Minimum water depth over the surface of the filter media of three (3) feet. ( )

e. Trapped effluent to prevent backflow of air to the bottom of the filters. ( )

f. Prevention of floor drainage to the filter with a minimum four (4) inch curb around the filters. ( )

g. Prevention of flooding by providing overflow. ( )

h. Maximum velocity of treated water entering the filters of two (2) feet per second. ( )

i. Cleanouts and straight alignment for influent pipes or conduits where solids loading is heavy, or following lime-soda softening. ( )

j. Washwater drain capacity to carry maximum flow. ( )

k. Walkways around filters to be not less than twenty-four (24) inches wide and equipped with safety

handrails or walls. ( )

l. Construction so as to prevent cross connections and common walls between potable water and non-potable fluids. ( )

05. **Wash~~w~~ Water Troughs.** Washwater troughs ~~shall~~ **must** be constructed to have: (3-24-22)( )

a. The bottom elevation above the maximum level of expanded media during washing. ( )

b. A two (2) inch freeboard at the maximum rate of wash. ( )

c. The top edge level and all at the same elevation. ( )

d. Spacing so that each trough serves the same number of square feet of filter area. ( )

e. Maximum horizontal travel of suspended particles to reach the trough not to exceed three (3) feet. ( )

06. **Filter Material.** The media ~~shall~~ **must** be clean silica sand or other natural or synthetic media free from detrimental chemical or bacterial contaminants, approved by the Department, and having the following characteristics: (3-24-22)( )

a. A total depth of not less than twenty-four (24) inches and generally not more than thirty (30) inches. ( )

b. An effective size range of the smallest material no greater than forty-five hundredths (0.45) of a millimeter to fifty-five hundredths (0.55) of a millimeter. ( )

c. A uniformity coefficient of the smallest material not greater than one and sixty-five hundredths (1.65). ( )

d. A minimum of twelve (12) inches of media with an effective size range no greater than forty-five hundredths (0.45) of a millimeter to fifty-five hundredths (0.55) of a millimeter and a specific gravity greater than other filtering materials within the filter. ( )

e. Types of filter media are as follows: ( )

i. Clean, crushed anthracite or a combination of anthracite and other media may be considered on the basis of experimental data specific to the project. The anthracite ~~shall~~ **must** have the following characteristics: (3-24-22)( )

(1) Effective size of forty-five hundredths (0.45) of a millimeter to fifty-five hundredths (0.55) of a millimeter with uniformity coefficient not greater than sixty-five hundredths (1.65) when used alone. ( )

(2) Effective size of eight tenths (0.8) of a millimeter to one and two-tenths (1.2) millimeters with a uniformity coefficient not greater than one and eighty-five hundredths (1.85) when used as a cap. ( )

(3) Effective size for anthracite used as a single media on potable ground-water for iron and manganese removal only ~~shall~~ **must** be a maximum of eight tenths (0.8) of a millimeter (effective sizes greater than this may be approved based upon onsite pilot plant studies or other demonstration acceptable to the Department). See Subsection 501.19 for general information on conducting pilot studies. (3-24-22)( )

ii. Sand media ~~shall~~ **must** have the following characteristics: (3-24-22)( )

(1) Effective size of forty-five hundredths (0.45) of a millimeter to fifty-five hundredths (0.55) of a millimeter. ( )



- (2) Uniformity coefficient of not greater than one and sixty-five hundredths (1.65). ( )
- (3) Larger size sand media may be allowed by the Department where full-scale tests have demonstrated that treatment goals can be met under all conditions. ( )
- iii. Granular activated carbon (GAC) as a single media may be considered for filtration only after pilot or full-scale testing and with prior approval of the Department. ~~See in accordance with~~ Subsection 501.19 ~~for general information on conducting pilot studies.~~ The design shall include the following: (3-24-22)( )
  - (1) The media must meet the basic specifications for filter media as given in Subsections 521.06.a. through d., except that larger size media may be allowed where full scale tests have demonstrated that treatment goals can be met under all conditions. ( )
  - (2) There must be a means for periodic treatment of filter material for control of bacterial and other growth. ( )
  - (3) Provisions must be made for frequent replacement or regeneration. ( )
  - iv. Other media will be considered based on experimental data and operating experience. ( )
  - v. A three (3) inch layer of torpedo sand ~~shall must~~ be used as a supporting media for filter sand where supporting gravel is used, and ~~shall must~~ have an effective size of eight-tenths (0.8) millimeters to two (2.0) millimeters, and a uniformity coefficient not greater than one and seven-tenths (1.7). (3-24-22)( )
  - vi. Gravel, when used as the supporting media, ~~shall must~~ consist of cleaned and washed, hard, durable, rounded silica particles and ~~shall must~~ not include flat or elongated particles. The coarsest gravel ~~shall must~~ be two and one-half (2.5) inches in size when the gravel rests directly on a lateral system and must extend above the top of the perforated laterals. Not less than four (4) layers of gravel ~~shall must~~ be provided in accordance with the size and depth distribution specified in the table below. Reduction of gravel depths and other size gradations may be considered upon justification to the ~~reviewing authority for slow sand filtration or~~ Department when proprietary filter bottoms are specified.

Size of Gravel	Depth
2 ½ to 1 ½ inches	5 to 8 inches
1 ½ to ¾ inches	3 to 5 inches
¾ to ½ inches	3 to 5 inches
½ to 3/16 inches	2 to 3 inches
3/16 to 3/32 inches	2 to 3 inches

(3-24-22)( )

**07. Filter Bottoms and Strainer Systems.** Departure from the standards set out in Subsection 521.07 may be acceptable for high rate filters and for proprietary bottoms. Porous plate bottoms ~~shall must~~ not be used where iron or manganese may clog them or with waters softened by lime. The design of manifold-type collection systems ~~shall must~~: (3-24-22)( )

- a. Minimize loss of head in the manifold and laterals. ( )
- b. Ensure even distribution of wash water and even rate of filtration over the entire area of the filter. ( )
- c. Provide the ratio of the area of the final openings of the strainer systems to the area of the filter at about three-thousandths (0.003), ( )

- d. Provide the total cross-sectional area of the laterals at ~~about~~ twice the total area of the final openings. (3-24-22)( )
- e. Provide the cross-sectional area of the manifold at one and one-half (1.5) to two (2) times the total area of the laterals. ( )
- f. Lateral perforations without strainers ~~shall~~ **must** be directed downward. (3-24-22)( )
- 08. Surface or Subsurface Wash.** Surface or subsurface wash facilities are required except for filters used exclusively for iron or manganese removal, and may be accomplished by a system of fixed nozzles or a revolving-type apparatus. All devices ~~shall~~ **must** be designed with: (3-24-22)( )
- a. Provision for water pressures of at least forty-five (45) pounds per square inch. ( )
- b. A properly installed vacuum breaker or other approved device to prevent back siphonage if connected to the treated water system. ( )
- c. Rate of flow of two (2.0) gallons per minute per square foot of filter area with fixed nozzles or one-half (0.5) gallon per minute per square foot with revolving arms. ( )
- d. Air wash can be considered based on experimental data and operating experiences. ( )
- 09. Air Scouring.** Air scouring can be considered in place of surface wash provided the following conditions are met: ( )
- a. Air flow for air scouring the filter must be three (3) to five (5) standard cubic feet per minute square foot of filter area when the air is introduced in the underdrain; a lower air rate must be used when the air scour distribution system is placed above the underdrains. ( )
- b. A method for avoiding excessive loss of the filter media during backwashing must be provided. ( )
- c. Air scouring must be followed by a fluidization wash sufficient to re-stratify the media. ( )
- d. Air must be free from contamination. ( )
- e. Air scour distribution systems ~~shall~~ **must** be placed below the media and supporting bed interface with the following exception: if placed at the interface the air scour nozzles ~~shall~~ **must** be designed to prevent media from clogging the nozzles or entering the air distribution system. (3-24-22)( )
- f. Piping for the air distribution system ~~shall~~ **must** not be flexible hose which will collapse when not under air pressure and ~~shall~~ **must** not be a relatively soft material which may erode at the orifice opening with the passage of air at high velocity. (3-24-22)( )
- g. Air delivery piping ~~shall~~ **must** not pass down through the filter media nor ~~shall~~ **may** there be any arrangement in the filter design which ~~would~~ allow short circuiting between the applied unfiltered water and the filtered water. (3-24-22)( )
- h. The backwash water delivery system must be capable of fifteen (15) gallons per minute per square foot of filter surface area (37 m/hr); however, when air scour is provided the backwash water rate must be variable and ~~should~~ not exceed eight (8) gallons per minute per square foot (20 m/hr) unless operating experience shows that a higher rate is necessary to remove scoured particles from filter media surfaces. (3-24-22)( )
- i. The filter underdrains ~~shall~~ **must** be designed to accommodate air scour piping when the piping is installed in the underdrain. (3-24-22)( )

10. **Filter Appurtenances.** The following ~~shall~~ must be provided for every filter: (3-24-22)( )
- a. Influent and effluent sampling taps. ( )
  - b. A gauge capable of indicating loss of head. ( )
  - c. A meter indicating rate-of flow. A modified rate controller which limits the rate of filtration to a maximum rate may be used. However, equipment that simply maintains a constant water level on the filters is not acceptable, unless the rate of flow onto the filter is properly controlled. A pump or a flow meter in each filter effluent line may be used as the limiting device for the rate of filtration only if approved by the Department on a site-specific basis. ( )
11. **Backwash.** Provisions ~~shall~~ must be made for washing filters as follows: (3-24-22)( )
- a. A minimum backwash rate such that a fifty (50) percent expansion of the filter bed is achieved. ( )
  - b. Filtered water provided at the required rate by wash water tanks, a wash water pump, from the high service main, or a combination of these. ( )
  - c. Wash water pumps in duplicate unless an alternate means of obtaining wash water is available. ( )
  - d. Not less than fifteen (15) minutes wash of one filter at the design rate of wash. ( )
  - e. A wash water regulator or valve on the main wash water line to obtain the desired rate of filter wash with the wash water valves on the individual filters open wide. ( )
  - f. A rate-of-flow indicator, preferably with a totalizer, on the main wash water line, located so that it can be easily read by the operator during the washing process. ( )
  - g. Design to prevent rapid changes in backwash water flow. Backwash ~~shall~~ must be operator initiated. Automated systems ~~shall~~ must be operator adjustable. (3-24-22)( )
12. **Roof Drainage.** Roof drains ~~shall~~ must not discharge into the filters or basins and conduits preceding the filters. (3-24-22)( )

**522. ~~FACILITY AND DESIGN STANDARDS: SURFACE WATER TREATMENT: FILTRATION USING DIATOMACEOUS EARTH.~~**

The use of these filters may be considered for application to surface waters with low turbidity and low bacterial contamination, and may be used for iron removal for ground-waters providing the removal is effective and the water is of satisfactory sanitary quality before treatment. (3-24-22)( )

01. **Conditions of Use.** Diatomaceous earth filters are expressly excluded from consideration for the following conditions: ( )
- a. Bacteria removal; ( )
  - b. Color removal; ( )
  - c. Turbidity removal where either the gross quantity of turbidity is high or the turbidity exhibits poor filterability characteristics; or ( )
  - d. Filtration of waters with high algae counts. ( )
02. **Treated Water Storage.** Treated water storage capacity in excess of normal requirements ~~shall~~ must be provided to allow operation of the filters at a uniform rate during all conditions of ~~system~~ PWS demand at or

below the approved filtration rate, and guarantee continuity of service during adverse raw water conditions without by-passing the system. (3-24-22)( )

**03. Number of Units.** A minimum of two (2) units for redundancy ~~shall~~ **must** be provided for filtration such that plant design capacity can be maintained with any component out of service for maintenance or repairs. (3-24-22)( )

**04. Precoat.** A uniform precoat ~~shall~~ **must** be applied hydraulically to each septum by introducing a slurry to the tank influent line and employing a filter-to-waste recirculation system. (3-24-22)( )

**05. Body Feed.** A body feed system to apply additional amounts of diatomaceous earth slurry during the filter run is required to avoid short filter runs or excessive head losses. ( )

**a.** The rate of body feed is dependent on raw water quality and characteristics and must be determined in the pilot plant study. ~~See in accordance with~~ Subsection 501.19 ~~for general information on conducting pilot studies.~~ (3-24-22)( )

**b.** Continuous mixing of the body feed slurry is required. ( )

**06. Filtration Requirements.** ( )

**a.** Rate of filtration ~~shall~~ **must** be controlled by a positive means. (3-24-22)( )

**b.** Head loss ~~shall~~ **must** not exceed thirty (30) psi for pressure diatomaceous earth filters, or a vacuum of fifteen (15) inches of mercury for a vacuum system. (3-24-22)( )

**c.** A recirculation or holding pump ~~shall~~ **must** be employed to maintain differential pressure across the filter when the unit is not in operation in order to prevent the filter cake from dropping off the filter elements. A minimum recirculation rate of one-tenth (0.1) gallon per minute per square foot of filter area ~~shall~~ **must** be provided. (3-24-22)( )

**d.** The septum or filter elements ~~shall~~ **must** be structurally capable of withstanding maximum pressure and velocity variations during filtration and backwash cycles, and ~~shall~~ **must** be spaced such that no less than one (1) inch is provided between elements or between any element and a wall. (3-24-22)( )

**e.** The filter influent ~~shall~~ **must** be designed to prevent scour of the diatomaceous earth from the filter element. (3-24-22)( )

**07. Backwash.** A satisfactory method to thoroughly remove and dispose of spent filter cake ~~shall~~ **must** be provided. (3-24-22)( )

**08. Appurtenances.** The following ~~shall~~ **must** be provided for every filter: (3-24-22)( )

**a.** Sampling taps for raw and filtered water. ( )

**b.** Loss of head or differential pressure gauge. ( )

**c.** Rate-of-flow indicator. ( )

**d.** A throttling valve used to reduce rates below normal during adverse raw water conditions. ( )

**e.** Evaluation of the need for body feed, recirculation, and any other pumps. ( )

**f.** Provisions for filtering to waste with appropriate measures for backflow prevention. ( )

**09. Monitoring.** A continuous monitoring turbidimeter with recorder is required on each filter effluent

for plants treating surface water. ( )

**523. ~~FACILITY AND DESIGN STANDARDS: SURFACE WATER TREATMENT: SLOW SAND FILTRATION.~~**

The use of ~~these slow sand~~ filters ~~shall~~ requires prior engineering studies to demonstrate the adequacy and suitability of this method of filtration for the specific water supply. Slow Sand Filtration and Diatomaceous Earth Filtration for Small Water Systems, Manual ~~on~~ of Design for Slow Sand Filtration, and Recommended Operations and Optimization Goals, Slow Sand Filtration referenced in Subsection 002.02, may be used as guidance in design and operation of slow sand filtration facilities. (3-24-22)( )

**01. Quality of Raw Water.** Slow rate gravity filtration ~~shall~~ must be limited to waters having maximum turbidities of ten (10) nephelometric units and maximum color of fifteen (15) units; such turbidity must not be attributable to colloidal clay. Raw water quality data must include examinations for algae. For source water having variable turbidity, the potential use of a roughing filter or other pretreatment technology ~~should~~ must be evaluated. The Department may allow the use of a pretreatment technology on raw waters that exceed the normal limits for turbidity and color, if it can be demonstrated to the Department's satisfaction that pretreatment will enable slow sand filtration to properly operate and comply with these Rules. (3-24-22)( )

**02. Number of Units.** A minimum of two (2) units for redundancy ~~shall~~ must be provided for filtration such that plant design capacity can be maintained with any component out of service for maintenance or repairs. The Department may allow a single bed filter if it can be demonstrated to the Department's satisfaction that an alternative water source is available such that the ~~water system~~ PWS can provide plant design capacity with the filter taken out of service for maintenance and repairs. (3-24-22)( )

**03. Structural Details and Hydraulics.** Slow rate gravity filters ~~shall~~ must be ~~so~~ designed ~~as~~ to provide a cover, unless otherwise approved by the Department ~~based on documentation provided by the design engineer~~, headroom to permit normal movement by operating personnel for scraping and sand removal operations, adequate access hatches and access ports for handling of sand and for ventilation, filtration to waste, an overflow at the maximum filter water level, and protection from freezing. A permanent means of determining sand depth ~~shall~~ must be provided. (3-24-22)( )

**04. Underdrains.** Each filter unit ~~shall~~ must be equipped with a main drain and an adequate number of lateral underdrains to collect the filtered water. The underdrains ~~shall~~ must be so spaced that the maximum velocity of the water flow in the underdrain will not exceed three-fourths (0.75) feet per second. The maximum spacing of laterals ~~shall not exceed~~ is three (3) feet if pipe laterals are used. (3-24-22)( )

**05. Filter Material.** The following requirements apply: ( )

- a. A minimum depth of thirty (30) inches of filter sand ~~shall~~ must be placed on graded gravel layers. (3-24-22)( )
- b. The effective size ~~shall~~ must be between fifteen hundredths (0.15) of a millimeter and thirty-five hundredths (0.35) of a millimeter. Larger sizes may be considered by the Department based on the results of a pilot study. ~~See in accordance with~~ Subsection 501.19 ~~for general information on conducting pilot studies.~~ (3-24-22)( )
- c. The uniformity coefficient ~~shall~~ must not exceed three point zero (3.0). (3-24-22)( )
- d. The sand ~~shall~~ must be cleaned and washed free from foreign matter. (3-24-22)( )
- e. The sand ~~shall~~ must be rebudded to the original minimum depth of thirty (30) inches when scraping has reduced the bed depth to no less than twenty-four (24) inches. Where sand is to be reused in order to provide biological seeding and shortening of the ripening process, rebudding ~~shall~~ must utilize a "throw over" technique whereby new sand is placed on the support gravel and existing sand is replaced on top of the new sand. The maximum filtration rate ~~shall~~ must not exceed zero point one (0.1) gallon per minute per square foot for each individual bed. (3-24-22)( )

06. Filter Sand Support. ( )

a. A three (3)-inch layer of sand ~~shall~~ **must** be used as a supporting media for filter sand. The supporting sand ~~shall~~ **must** have an effective size of zero point eight (0.8) millimeters to two point zero (2.0) millimeters and a uniformity coefficient not greater than one point seven (1.7). (3-24-22)( )

b. Gravel ~~shall~~ **must** consist of cleaned and washed, hard, durable, rounded rock particles and ~~shall~~ **may** not include flat or elongated particles. The coarsest gravel ~~shall~~ **must** be two and one-half (2.5) inches in size when the gravel rests directly on a lateral system and must extend above the top of the perforated laterals. Not less than four (4) layers of gravel ~~shall~~ **may** be provided in accordance with the size and depth distribution specified in the table below. Reduction of gravel depths and other size gradations may be considered upon justification to the Department.

Size of Gravel	Depth
2 1/2 to 1 1/2 inches	5 to 8 inches
1 1/2 to 3/4 inches	3 to 5 inches
3/4 to 1/2 inches	3 to 5 inches
1/2 to 3/16 inches	2 to 3 inches
3/16 to 3/32 inches	2 to 3 inches

(3-24-22)( )

07. **Depth of Water Over Filter Beds.** The design ~~shall~~ **must** provide a depth of at least three (3) to six (6) feet of water over the sand. Influent water ~~shall~~ **must** not scour the sand surface. (3-24-22)( )

08. **Control Appurtenances.** Each filter ~~shall~~ **must** be equipped with a loss of head gauge, an orifice, Venturi meter, or other suitable means of discharge measurement installed on each filter to control the rate of filtration, and an effluent pipe designed to maintain the water level above the top of the filter sand. The effluent piping must not be directly interconnected with the other filter beds. A sample tap ~~shall~~ **must** be provided for each filter bed. (3-24-22)( )

09. **Ripening.** Slow sand filters must be filtered-to-waste until they are biologically mature before being put into service following construction, scraping, re-sanding, or reopening after extended shutdown. The period of filter-to-waste ~~shall~~ **must** be as follows: (3-24-22)( )

a. Filters ~~shall~~ **must** be filtered-to-waste after scraping or cleaning until the effluent turbidity falls consistently below the pre-cleaning level, unless otherwise approved by the Department ~~based on documentation provided by the design engineer.~~ (3-24-22)( )

b. Filters ~~shall~~ **must** be filtered-to-waste following construction, re-sanding, or extended shutdown based on project specific protocols ~~that have been~~ approved by the Department and ~~then~~ incorporated into a Department approved operation and maintenance manual. These protocols may be based on factors from standard literature such as those listed in Subsection 002.02 but typically include factors such as minimum filter-to-waste time periods, bacteriological testing, and effluent turbidity. Sampling results from the filter-to-waste period ~~shall~~ **must** be provided to the Department for review and the Department must provide authorization prior to restarting service to the public. (3-24-22)( )

10. **Supernatant Drain Required.** Filter beds ~~shall~~ **must** be equipped with a supernatant drain to allow for quick removal of water standing over sand that has become impermeable because it requires scraping or rebedding. (3-24-22)( )

11. **Filter Bed Control and Minimum Rate of Flow.** Each filter bed ~~shall~~ **must** be controlled separately and filters must be operated at a constant filtration rate with any changes made gradually. The minimum

rate of filtration ~~shall~~ must be at least two hundredths (0.02) gallons per minute per square foot. (3-24-22)( )

**524. ~~FACILITY AND DESIGN STANDARDS: SURFACE WATER TREATMENT: DIRECT FILTRATION.~~**

Direct filtration, as used herein, refers to the filtration of a surface water following chemical coagulation and possibly flocculation but without prior settling. The nature of the treatment process will depend upon the raw water quality. A full scale direct filtration plant ~~shall~~ must not be constructed without prior pilot studies which are acceptable to the reviewing authority Department. In-plant demonstration studies are required where conventional treatment plants are converted to direct filtration. Where direct filtration is proposed, an engineering report ~~shall~~ must be submitted prior to conducting pilot plant or in-plant demonstration studies. ~~See in accordance with~~ Subsection 501.19 ~~for general information on conducting pilot studies.~~ (3-24-22)( )

**01. Filtration Requirements. ( )**

a. Filters ~~shall~~ must be rapid rate gravity filters with dual or mixed media. The final filter design ~~shall~~ must be based on the pilot plant or in-plant demonstration studies, and all portions of Section 518 apply. Pressure filters or single media sand filters ~~shall~~ will not be used. (3-24-22)( )

b. A continuous recording turbidimeter ~~shall~~ must be installed on each filter effluent line and on the composite filter effluent line. (3-24-22)( )

c. Additional continuous monitoring equipment such as particle counting or streaming current metering to assist in control of coagulant dose may be required by the reviewing authority Department. (3-24-22)( )

**02. Siting Requirements.** The plant design and land ownership surrounding the plant ~~shall~~ must allow for modifications of the plant. (3-24-22)( )

**03. Redundancy.** A minimum of two (2) units ~~shall~~ must be provided for filtration such that plant capacity can be maintained with any component out of service for maintenance or repairs. (3-24-22)( )

**525. ~~FACILITY AND DESIGN STANDARDS: LOW PRESSURE MEMBRANE FILTRATION.~~**

Low pressure filtration, as used herein, refers to microfiltration or ultrafiltration processes. Low pressure membrane systems can provide greater than 3-log removal of Giardia lamblia and Cryptosporidium, and ultrafiltration systems can also provide up to 2-log virus removal. The Department will determine maximum available removal credits for the specific membrane under consideration. The actual log removal credit that a low pressure membrane filtration system will receive is the lower of the values determined by the following: the removal efficiency demonstrated during challenge testing, or the maximum log removal that can be verified by direct integrity testing required during the course of normal operation. Membrane systems ~~shall~~ must contain sufficient design to allow for offline direct integrity testing of all units or modules at the required interval while retaining the capability to supply maximum day demand to the ~~water system~~ PWS. Membrane systems ~~shall~~ must have at least two (2) units unless it can be demonstrated to the satisfaction of the Department that a secondary source or treatment component can supply the required minimum plant design capacity. (3-24-22)( )

**01. Membrane Selection and Design Considerations. ( )**

a. ~~Challenge Testing.~~ Challenge testing involves seeding feed water with an organism or particulate and measuring the log reduction of the organism or particulate between the feed and filtrate. It is a one-time product-specific test event performed by an approved third party designed to demonstrate the removal ability of the membrane. Challenge testing ~~shall~~ must be conducted by the third party entity in general conformance with the USEPA Membrane Filtration Guidance Manual referenced in Subsection 002.02 (Membrane Filtration Guidance Manual). The challenge test report ~~shall~~ is to be submitted to the Department along with the ~~preliminary engineering report~~ PER for the project. The Department may accept another state's challenge test report approval. (3-24-22)( )

b. ~~Water Quality Considerations for Design.~~ A review of historical source water data ~~shall~~ must be conducted to determine the degree of pretreatment needed if any, the feasibility of membrane filtration, and an

estimated cost of the system. At a minimum, the following parameters ~~shall are to~~ be investigated: Seasonal temperature and turbidity profiles, total organic loading, occurrence of algae, microbial activity, iron, manganese, and hardness levels, and any other inorganic or physical parameters determined to be necessary by the Department. The data ~~shall will~~ be used to determine anticipated fouling and scaling, backwash and cleaning cycles and regimens, acceptable trans-membrane pressure differentials, and design flux, especially during lowest anticipated water temperature. (3-24-22)( )

c. ~~Pilot Study~~ A pilot study ~~shall must~~ be conducted for a period that ~~shall be is~~ determined by the design engineer and approved by the Department. The duration ~~should will~~ include the season of lowest water temperatures and the season including the highest anticipated turbidity, algal bloom, TOC, and iron/manganese event or otherwise cover four seasons of source water quality conditions. The Department may approve a shorter duration proof pilot to verify design criteria that affect the reliable production capacity of the membrane system. The Department may approve the use of a full scale pilot study where the full scale facility will act as the pilot study. The Department may also waive the pilot study requirement. Proof pilot studies, full scale pilot studies, and the waiving of the pilot study requirement will only be approved in circumstances where source water conditions and fouling characteristics are already well understood. Such source waters include but are not limited to ground-water under the influence of surface water, waters with existing membrane plants, waters where sufficient pilot test data has already been generated, and extensively used or tested membrane products where production or test data on similar waters is available (i.e., same lake, reservoir, or same reach for stream sources). In addition to the requirements in Subsection 501.19, the pilot study ~~shall must~~ include: (3-24-22)( )

- i. A means to identify the best membrane to use for the anticipated water quality; ( )
- ii. Analysis of any need for pretreatment; ( )
- iii. Range of anticipated flux rates; ( )
- iv. Operating and transmembrane pressure; ( )
- v. Fouling and scaling potential; ( )
- vi. Backwash and recovery cleaning, cleaning processes, and intervals; ( )
- vii. Efficiency and process mass balance; ( )
- viii. Waste stream volume, characterization, and disposal method; ( )
- ix. Turbidity; and ( )
- x. Integrity testing results and procedures. ( )

**02. Monitoring and Compliance Requirements for Membranes.** ~~Public drinking water systems~~ PWSs that use low pressure membrane filtration must comply with the following requirements. (3-24-22)( )

- a. Initial Start-Up. ( )
  - i. ~~Notify~~ the Department ~~shall be notified~~ at least one (1) week in advance of the planned start-up date. (3-24-22)( )
  - ii. The design engineer ~~shall will~~ oversee start-up procedures. (3-24-22)( )
  - iii. All monitoring equipment ~~shall will~~ be calibrated prior to start-up. (3-24-22)( )
  - iv. The system ~~shall must~~ pass direct integrity testing prior to going on-line and producing water for distribution. (3-24-22)( )



- v. A method for the disposal of start-up water ~~shall~~ **needs to** be approved by the Department prior to start-up. (3-24-22)( )
- b. Direct Integrity Testing. ( )
- i. ~~Scale of Testing~~—Testing must be conducted on each membrane skid in service at least daily for the first year of operation. (3-24-22)( )
- ii. ~~Resolution~~—The test method used must have a resolution of three (3)  $\mu\text{m}$  or less for Cryptosporidium and Giardia lamblia removal credit. (3-24-22)( )
- iii. ~~Sensitivity~~—The test method used must have sensitivity sufficient to verify the ability of the membrane filtration system to remove the constituent at a level commensurate with the credit awarded by the Department. (3-24-22)( )
- (1) Formulae for sensitivity calculation for pressure-based tests are available in the Membrane Filtration Guidance Manual referenced in Subsection 002.02. The volumetric concentration factor used in the calculation may be either calculated or determined experimentally. ( )
- (2) Formulae for sensitivity calculation for marker-based tests are available in the Membrane Filtration Guidance Manual referenced in Subsection 002.02. ( )
- iv. ~~Control Limit~~—A control limit must be established within the sensitivity limits of the direct integrity test that is indicative of an integral membrane unit capable of achieving the log removal credit awarded by the Department. (3-24-22)( )
- (1) If the direct integrity test results exceed the control limit for any membrane unit, that unit must be removed from service. ( )
- (2) Any unit taken out of service for exceeding a direct integrity test control limit cannot be returned to service until repairs are confirmed by subsequent direct integrity test results that are within the control limit. ( )
- v. ~~Frequency~~—Direct integrity testing must be conducted on each membrane unit at a frequency of at least once per day that the unit is in operation. The Department may extend testing frequency up to a duration of once per week after one (1) year of daily testing showing a less than five percent (5%) testing failure rate for the previous year. During weekly testing, if at any time the system fails more than two (2) direct integrity tests within a three (3) month period, the system ~~shall~~ **must** return to daily testing. (3-24-22)( )
- c. Indirect Integrity Monitoring. ( )
- i. ~~Scale of Testing~~—Testing must be conducted on each membrane unit in service. (3-24-22)( )
- ii. ~~Monitoring Method~~—Continuous indirect integrity monitoring must be conducted using turbidity monitoring unless the Department approves an alternative method. (3-24-22)( )
- iii. ~~Frequency~~—Continuous indirect integrity monitoring must be conducted at a frequency of at least one (1) reading every fifteen (15) minutes. The Department may allow a time delay in reporting compliance turbidity measurements if it can be demonstrated that elevated turbidity readings above fifteen hundredths (0.15) NTU immediately following direct integrity testing or maintenance are the result of factors related to entrained air or membrane wettability and are not related to membrane integrity. (3-24-22)( )
- iv. ~~Control Limit~~—If the continuous indirect integrity monitoring results exceed the specified control limit for any membrane unit for a period greater than fifteen (15) minutes (i.e., two (2) consecutive readings at fifteen (15) minute intervals), direct integrity testing must be immediately conducted on that unit. (3-24-22)( )
- (1) The control limit for turbidity monitoring is fifteen hundredths (0.15) NTU. ( )

(2) Control limits for Department approved alternative methods ~~shall~~ will be established by the Department. (3-24-22)( )

d. ~~Operations Plan~~—A project specific operation and maintenance manual ~~shall~~ must be provided as required in Subsection 501.12. See definition of Operation and Maintenance Manual in Section 003 for the typical contents of an operation and maintenance manual and the included operations plan. The operations plan in the operation and maintenance manual for membrane systems ~~shall~~ must include, but is not limited to the following information: (3-24-22)( )

- i. Filtration: ( )
  - (1) Control of feed flow to the membrane system; ( )
  - (2) Measurement of inlet/outlet pressures and filtrate flows; ( )
  - (3) Measurement of transmembrane pressure changes during filter run; and ( )
  - (4) Feed flow control in response to temperature changes. ( )
- ii. Membrane backwashing: ( )
  - (1) Programming automated frequency; ( )
  - (2) Proper backwash venting and disposal; see Section 540; ( )
  - (3) Appropriate backwash rate; and ( )
  - (4) Monitoring during return of filter to service. ( )
- iii. Chemical cleaning: ( )
  - (1) Selection of proper chemical washing sequence; ( )
  - (2) Proper procedures for dilution of chemicals; ( )
  - (3) Monitoring of pH through chemical cleaning cycle; ( )
  - (4) Rinsing of membrane system following chemical clean; and ( )
  - (5) Return of filter to service. ( )
- iv. Chemical feeders (in the case that chemical pretreatment is applied): ( )
  - (1) Calibration check; ( )
  - (2) Settings and adjustments (how they ~~should be~~ are made); and (3-24-22)( )
  - (3) Dilution of chemicals and polymers (proper procedures). ( )
- v. Monitoring and observing operation: ( )
  - (1) Observation of feed water or pretreated water turbidity; ( )
  - (2) Observation of trans-membrane pressure increase between backwashes; ( )
  - (3) Filtered water turbidity; ( )

- (4) Procedures to follow if turbidity breakthrough occurs. ( )
- vi. Troubleshooting. ~~A troubleshooting checklist or guide shall be included. Suggested troubleshooting items include but are not limited to the following:~~ (3-24-22)( )
  - (1) No raw water (feed water) flow to plant; ( )
  - (2) Can't control rate of flow of water through equipment; ( )
  - (3) Valving configuration for direct flow and cross-flow operation modes; ( )
  - (4) Poor raw water quality (raw water quality falls outside the performance range of the equipment); ( )
  - (5) Poor filtrate quality; ( )
  - (6) Failed membrane integrity test; ( )
  - (7) Low pump feed pressure; ( )
  - (8) Automatic operation (if provided) not functioning; ( )
  - (9) Filtered water turbidity too high; ( )
  - (10) Head loss builds up excessively rapidly; ( )
  - (11) Reduced flux; ( )
  - (12) Machine will not start and "Power On" indicator off; ( )
  - (13) Machine will not start and "Power On" indicator on; ( )
  - (14) Pump cavitation; ( )
  - (15) Valve stuck or won't operate; and ( )
  - (16) No electric power. ( )
- e. ~~Reporting.~~ The sensitivity, resolution, and frequency of the direct integrity test proposed for use with the full-scale facility must be reported to the Department prior to initial operation. The following ~~shall~~ **must** be reported to the Department on a monthly basis: (3-24-22)( )
  - i. Any direct integrity test results exceeding the control limit, as well as the corrective action taken in response, must be reported to the Department within ten (10) days of the end of the monthly monitoring cycle on a Department reporting form. The form is available at [www.deq.idaho.gov](http://www.deq.idaho.gov); ( )
  - ii. Any continuous indirect integrity monitoring results triggering direct integrity testing, as well as any corrective action taken in response, must be reported to the Department within ten (10) days of the end of the monthly monitoring cycle on a Department reporting form. The form is available at [www.deq.idaho.gov](http://www.deq.idaho.gov); ( )
  - iii. Any additional information considered necessary by the Department on a case-specific basis to verify proper operation and maintenance of the membrane filtration process; and ( )
  - iv. All direct integrity test results and continuous indirect integrity monitoring results must be retained for a minimum of three (3) years. ( )

526. -- 528. (RESERVED)

529. ~~FACILITY AND DESIGN STANDARDS:~~ **REQUIRED** DISINFECTION OF DRINKING WATER, ULTRAVIOLET LIGHT.

01. General. ( )

a. Ultraviolet (UV) light technology is a primary disinfectant typically used for Cryptosporidium, Giardia lamblia, and virus inactivation of both surface water and ground-water supplies. Reactor performance in terms of inactivation of any particular organism is a function of the delivered dose which is determined by validation testing. PWSs that are required to maintain a disinfectant residual in the distribution system must supplement UV disinfection with a chemical disinfectant. (3-24-22)( )

b. UV disinfection credit will be awarded for filtered ~~systems~~ PWSs and unfiltered ~~systems~~ PWSs if the ~~system~~ unfiltered PWS meets the requirements ~~for unfiltered systems~~ in 40 CFR 141.71. Systems PWSs will receive Cryptosporidium, Giardia lamblia, and virus treatment credits by achieving the corresponding UV dose values for the appropriate target pathogen and log reduction shown in Subsection 529.03, calculated to take into account the validation factor and reduction equivalent dose. The target pathogen and the target log inactivation ~~shall~~ be is used to identify the corresponding required UV dose. (3-24-22)( )

c. For ~~water systems~~ PWSs using UV light to meet microbial treatment requirements, at least ninety-five percent (95%) of the water delivered to the public every month must be treated by UV reactors operating within validated conditions for the required UV dose. (3-24-22)( )

d. When reviewing proposed UV disinfection projects, the Department will use the USEPA UV Disinfection Guidance Manual for the Final Long Term 2 Enhanced Surface Water Treatment Rule referenced in Subsection 002.02 (UV Disinfection Guidance Manual) for guidance. ( )

02. Pilot Studies and Validation. ( )

a. The Department may allow on-site pilot studies on a case-by-case basis in accordance with Subsection 501.19. Pilot studies are usually used to determine how much fouling occurs on site, to evaluate UV system reliability (e.g. UV sensors, UV transmittance (UVT) monitors, ballast reliability) and to provide operators experience running a UV system. They may also be used to assess lamp aging or impacts of power quality. ~~See Subsection 501.19 for general information on conducting pilot studies.~~ (3-24-22)( )

b. Validation testing determines the operating conditions and monitoring algorithms that the UV system will use to define how much UV dose is being delivered by the reactor during operation. The validated dose as determined through validation testing is compared to the required dose in the UV Dose Table (Subsection 529.03) to determine inactivation credit. The validated dose is calculated by dividing the determined reduction equivalent dose by a validation factor to account for biases and experimental uncertainty. UV light treatment reactors ~~shall~~ must be validated by a third party entity approved by the Department. At a minimum, validation testing must account for the following: UV absorbance of the water; lamp fouling and aging; measurement uncertainty of on-line UV sensors; UV dose distributions arising from the velocity profiles through the reactor; failure of UV lamps and other critical system components; inlet and outlet piping configuration of the UV reactor; lamp and UV sensor locations; and other parameters required by the Department. The Department may allow alternative test microbes such as MS2 phage where the UV dose response better matches that of Cryptosporidium and Giardia lamblia to provide more accurate and efficient UV dose monitoring. Additional guidance is available in the UV Disinfection Guidance Manual, referenced in Subsection 002.02, or another validation standard as approved by the Department. (3-24-22)( )

c. Validation testing ~~shall~~ must be conducted on full scale testing of a reactor that conforms uniformly to the UV reactors used by the ~~system~~ PWS and inactivation of a test microorganism whose dose response characteristics have been quantified with a low pressure mercury vapor lamp. (3-24-22)( )

d. Validation testing must determine and establish validated operating conditions under which the reactor delivers the required UV dose in Subsection 529.03. Validated operating conditions include: ( )

- i. Flow rate; ( )
- ii. UV Intensity as measured by a UV sensor; ( )
- iii. UV lamp operating status. ( )
- e. The department may approve an alternative approach to validation testing. ( )

**03. UV Dose Table.** The treatment credits listed in the dose table are based on UV light at a wavelength of two hundred fifty-four (254) nm as produced by a low pressure mercury vapor lamp. To receive treatment credit for other lamp types, the ~~system shall~~ **PWS must** demonstrate an equivalent germicidal dose through validation testing.

UV Dose Table (millijoules per square centimeter)			
Log	Cryptosporidium	Giardia lamblia	Virus
0.5	1.6	1.5	39
1.0	2.5	2.1	58
1.5	3.9	3.0	79
2.0	5.8	5.2	100
2.5	8.5	7.7	121
3.0	12	11	143
3.5	15	15	163
4.0	22	22	186

(3-24-22)( )

**04. Reactor Design.** Inlet and outlet conditions ~~shall~~ **must** ensure that UV dose delivery at the plant is equal to or exceeds that utilized during validation. At a minimum, design criteria ~~shall need to~~ address target pathogen(s), required log inactivation and UV dose, flow rate, UVT, and lamp aging and fouling factors. UVT and flow rate ~~shall are to~~ be selected to account for seasonal changes in UVT. Lamp aging and fouling factors ~~shall must~~ be supported by documentation or pilot study data. Recommended approaches of the UV Disinfection Guidance Manual, referenced in Subsection 002.02, ~~shall are to~~ be used in meeting this requirement. (3-24-22)( )

**a.** The reactor systems must be designed to monitor and record parameters to verify the operation within the validated operating conditions approved by the Department. The ~~system PWS~~ must be equipped with facilities to monitor and record UV intensity as measured by a UV sensor, flow rate, lamp status, UVT, and other parameters designated by the Department. (3-24-22)( )

**b.** The ultraviolet treatment device ~~shall must~~ be designed to provide a UV light dose equal to or greater than that specified in the UV Dose Table for the required log reduction. The UV Disinfection Guidance Manual, referenced in Subsection 002.02, ~~shall must~~ be utilized in evaluating the appropriate dose required for the target microbe. The reactor ~~shall also will need to~~ deliver the target dose while operating within the validated operating conditions for that particular unit. (3-24-22)( )

**c.** The ultraviolet treatment assemblies ~~shall must~~ be designed to allow for cleaning and replacement of the lamp, lamp sleeves, and sensor window or lens. (3-24-22)( )

**d.** All ultraviolet treatment device designs ~~shall must~~ evaluate lamp fouling and aging issues and manufacturer’s recommendations regarding fouling, aging, and replacement ~~shall will~~ be discussed in the Operation and Maintenance Manual. (3-24-22)( )

e. For in-situ cleaning of the lamp sleeve, the design ~~shall~~ **must** protect the potable water from cleaning solutions. (3-24-22)( )

f. When off-line chemical cleaning systems are used, the UV enclosure ~~shall~~ **must** be removed from service, drained, flushed with an NSF/ANSI Standard 60 certified solution, drained, and rinsed before being placed back in service. (3-24-22)( )

g. On-line systems that use wipers or brushes may use chemical solutions provided they are NSF/ANSI Standard 60 certified. ( )

h. An automatic shutdown valve ~~shall~~ **must** be installed in the water supply line from the ultraviolet treatment device such that if power is not provided to the reactor or valve, the valve ~~shall~~ **will** be in the closed position. (3-24-22)( )

i. The design of the inlet and outlet piping configuration and the locations of expansions, bends, tees and valves ~~shall~~ **will** assure that the UV dose delivery is equal to or greater than the required UV dose. Approach length prior to each reactor included in the credited dose calculations, downstream length following each reactor, and locations of any cleaning device/mechanism ~~shall~~ **must** be based on validation testing. (3-24-22)( )

j. For parallel trains, the flow to each reactor ~~shall~~ **must** be equally distributed and metered or otherwise account for uneven flows in the design to ensure that the required UV dose is delivered to each train under varying flow conditions. (3-24-22)( )

k. Valves ~~shall~~ **must** be provided to allow isolating and removing from service each UV reactor. (3-24-22)( )

l. Reactors ~~shall~~ **will** be provided with air relief and pressure control valves per manufacturer requirements. (3-24-22)( )

m. UVT analyzers ~~shall~~ **must** be provided if UVT is part of the dose monitoring strategy. It is recommended that UVT be monitored on a regular basis for all ~~systems~~ **PWSs** to assess UVT variability. (3-24-22)( )

n. A single train with a standby reactor or a sufficient number of parallel ultraviolet treatment devices ~~shall~~ **must** be installed to ensure that adequate disinfection is provided when one unit is out of service. The Department may approve an alternate method that provides adequate disinfection such as standby chlorination. Any ~~system~~ **PWS** that produces water on an irregular schedule may provide documentation for the Department's review and approval that a single reactor ~~would be~~ **is** an acceptable design by demonstrating there ~~would be~~ **is** adequate ~~for~~ time for maintenance and cleaning during operation shutdowns. (3-24-22)( )

o. No bypass of the ultraviolet treatment process may be installed unless an alternate method of providing adequate disinfection is provided. ( )

**05. Controls.** ( )

a. A delay mechanism ~~shall~~ **must** be installed to provide sufficient lamp warm-up prior to allowing water to flow from the ultraviolet treatment unit. (3-24-22)( )

b. An automatic shutdown ~~shall~~ **must** be designed to activate the shutdown valve in cases where the ultraviolet light dose falls below the approved design dose or outside of the validated specifications. (3-24-22)( )

**06. Reliability.** The ~~system~~ **PWS** must be capable of producing the plant design capacity at all times. (3-24-22)( )

a. ~~Standby equipment.~~ Unless otherwise approved by the Department ~~based on documentation provided by the design engineer~~ and in accordance with Subsection 529.04.n., a minimum of two (2) reactors is

required to maintain disinfection when one unit is taken out of service. Each reactor must be sized to deliver the required UV dose under the operating conditions of flow and UVT that occur at the plant. The conditions ~~shall~~ **must** fall within the validated range of the reactor as determined during validation testing. (3-24-22)( )

b. ~~Power supply.~~ The quality and reliability of the power supply ~~shall~~ **must** be analyzed and back-up power supplies ~~shall~~ **will** be discussed in the contingency plan. (3-24-22)( )

c. ~~Validated operating conditions.~~ If UVT is above the validated range of UVT, the UV dose monitoring algorithm ~~shall~~ **must** default to the maximum of the validated range. If UVT is below the validated range, the UV system operation ~~shall~~ **must** be recorded as outside of the validated operating conditions. When UVT falls outside of ranges identified in the validated operating conditions, the contingency plan ~~shall~~ **will** be enacted if UVT is part of the dose monitoring strategy. (3-24-22)( )

d. ~~Contingency plan.~~ A contingency plan for total UV disinfection failure, loss of power, or in the event that water quality changes produce water quality unsuitable for UV disinfection ~~shall~~ **must** be described in the ~~preliminary engineering report~~ **PER**. (3-24-22)( )

**07. Monitoring.** ~~Water systems~~ **PWSs** using UV light must monitor for the parameters necessary to demonstrate operation within the validated conditions of the required UV dose. **PWSs owners** must check the calibration of UV sensors and online UVT monitors and recalibrate in accordance with a protocol approved by the Department. At a minimum, the following parameters must be monitored: (3-24-22)( )

a. ~~Flow rate.~~ If the flow rate is below the validated range, then the UV dose monitoring algorithm ~~shall~~ **must** default to the validated range. If the flow rate is above the validated range, then the UV system operation ~~shall~~ **will** be recorded as outside of the validated operating conditions; (3-24-22)( )

b. UV intensity as measured by UV sensors; ( )

c. UVT if UVT is part of the dose monitoring strategy; and ( )

d. Lamp status. ( )

**08. Alarms.** The settings or predetermined set points for the alarms ~~shall~~ **must** be specified in the ~~preliminary engineering report~~ **PER**. The report ~~shall~~ **must** also specify the alarms that ~~shall~~ **will** activate the contingency plan response. At a minimum, the following alarms are required: (3-24-22)( )

a. Low UV intensity; ( )

b. High turbidity if required by the Department; ( )

c. Low UVT; ( )

d. Low UV dose; ( )

e. Lamp failure; ( )

f. UVT monitor failure; ( )

g. UV sensor failure; ( )

h. Low water level; and ( )

i. High flow rate. ( )

**09. Initial Startup.** The following items ~~shall~~ **must** be tested and verified before UV disinfected water is distributed: (3-24-22)( )

- a. Electrical components; ( )
- b. Water level; ( )
- c. Flow split between reactor trains if applicable; ( )
- d. Controls and alarms; and ( )
- e. Instrument calibration. ( )

**10. Operation and Maintenance Manual.** A project specific operation and maintenance manual ~~shall~~ **must** be provided as required in Subsection 501.12. See definition of Operation and Maintenance Manual in Section 003 for the typical contents of an operation and maintenance manual and the included operations plan. The operations plan in the operation and maintenance manual ~~shall~~ **must** include, but is not limited to, the following information:

(3-24-22)( )

- a. ~~Lamp aging and replacement intervals.~~ Lamp replacement intervals may be based on the degree of lamp aging as indicated by the UV sensors; (3-24-22)( )
- b. Lamp fouling analysis and cleaning procedures; ( )
- c. Lamp replacement; and ( )
- d. Lamp breakage. ( )

**530. ~~FACILITY AND DESIGN STANDARDS:~~ DISINFECTION OF DRINKING WATER, DISINFECTING AGENTS.**

~~Disinfection may be accomplished~~ **PWS owners may accomplish** with gas and liquid chlorine, calcium or sodium hypochlorites, chlorine dioxide, ozone, or ultraviolet light. Other disinfecting agents will be considered, providing reliable application equipment is available and testing procedures for a residual are recognized in “Standard Methods for the Examination of Water and Wastewater,” referenced in Subsection 002.02, or an equivalent means of measuring effectiveness exists. The required amount of primary disinfection needed ~~shall~~ **will** be specified by the Department. Consideration must be given to the formation of disinfection by-products (DBP) when selecting the disinfectant. See Section 531, ~~Facility Design Standards~~ Design Standards for Chemical Application. For ~~public water systems~~ **PWSs** using only ground-water and that voluntarily chlorinate, see Subsection 552.04.

(3-24-22)( )

**01. Chlorination.** ( )

a. In addition to the requirements of Section 531, chlorination equipment ~~shall~~ **must** meet the following requirements: (3-24-22)( )

i. Solution-feed gas chlorinators or hypochlorite feeders of the positive displacement type must be provided. ( )

ii. Standby or backup equipment of sufficient capacity ~~shall~~ **will** be available to replace the largest unit. Spare parts ~~shall~~ **will** be on hand to replace parts subject to wear and breakage. (3-24-22)( )

iii. Automatic proportioning chlorinators are required where the rate of flow or chlorine demand is not reasonably constant. ( )

iv. Each eductor (submerged jet pump) must be selected for the point of application with particular attention given to the quantity of chlorine to be added, the maximum injector waterflow, the total discharge back pressure, the injector operating pressure, and the size of the chlorine solution line. ( )

v. The chlorine solution injector/diffuser must be compatible with the point of application to provide a rapid and thorough mix with all the water being treated. ( )



vi. Automatic switch-over of chlorination treatment units ~~shall~~ will be provided, where necessary, to assure continuous disinfection. (3-24-22)( )

b. Effective contact time and point of application requirements are as follows: ( )

i. Effective contact time sufficient to achieve the inactivation of target pathogens under the expected range of raw water pH and temperature variation must be demonstrated through tracer studies or other evaluations or calculations acceptable to the Department. Improving Clearwell Design for CT Compliance, referenced in Section 002.02, contains information that may be used as guidance for these calculations. Additional baffling can be added to new or existing basins to minimize short circuiting and increase contact time. ( )

ii. At least two (2) contactors ~~shall~~ must be provided which are each capable of providing the required effective contact time at one-half (1/2) of the plant design capacity. Alternatively, a single contactor that can provide effective contact time at plant design capacity may be designed with separate sections and bypass piping to allow sections to be cleaned or maintained individually during low flow conditions. Any ~~system~~ PWS that produces water on an irregular schedule may provide documentation for the Department's review and approval that a single contactor ~~would be~~ is an acceptable design by demonstrating there ~~would be~~ is adequate time for maintenance and cleaning during operation shutdowns. (3-24-22)( )

iii. At plants treating surface water, except slow sand filtration systems: (3-24-22)

(+) Unless otherwise approved by the Department, in addition to the injection point prior to the disinfection contact tank, injection points ~~shall~~, including all appurtenant chemical feed piping, must also be provided for applying the disinfectant to the raw water, settled water, and water entering the distribution system. (3-24-22)( )

(2) ~~Unless otherwise approved by the Department, chemical piping or tubing shall be installed from the disinfectant feed system to each injection system during the initial construction.~~ (3-24-22)

iv. For pipeline contactors, provision ~~shall~~ must be made to drain accumulated sediment from the bottom of the contactor if the discharge from the contactor is not located at the bottom. (3-24-22)( )

c. Chlorine residual test equipment recognized in the "Standard Methods for the Examination of Water and Wastewater," referenced in Subsection 002.02, ~~shall~~ must be provided for use by the operator. All surface water treatment plants that serve a population greater than three thousand three hundred (3,300) must have equipment to measure chlorine residuals continuously entering the distribution system. A sample tap ~~shall~~ must be provided to measure chlorine residual and ~~shall~~ will be located at a point after receiving the required contact time and at or prior to the first service connection. (3-24-22)( )

d. Chlorinator piping requirements: ( )

i. ~~Cross-connection protection:~~ The chlorinator water supply piping ~~shall~~ must be designed to prevent contamination of the treated water supply by sources of questionable quality. At all facilities treating surface water, pre- and post-chlorination systems must be independent to prevent possible siphoning of partially treated water into the clear well. The water supply to each eductor ~~shall~~ must have a separate shut-off valve. No master shut-off valve will be allowed. (3-24-22)( )

ii. The pipes carrying elemental liquid or dry gaseous chlorine under pressure must be Schedule 80 seamless steel tubing or other materials recommended by the Chlorine Institute (never use PVC). Rubber, PVC, polyethylene, or other materials recommended by the Chlorine Institute must be used for chlorine solution piping and fittings. Nylon products are not acceptable for any part of the chlorine solution piping system. ( )

02. **Disinfection with Ozone.** Systems PWSs that are required to maintain a disinfectant residual in the distribution system ~~shall~~ must supplement ozone disinfection with a chemical disinfectant. (3-24-22)( )

a. The following are requirements for feed gas preparation: ( )

i. Feed gas can be air, oxygen enriched air, or high purity oxygen. Sources of high purity oxygen include purchased liquid oxygen conforming with AWWA Standard B-304; on site generation using cryogenic air separation; or temperature, pressure or vacuum swing (adsorptive separation) technology. In all cases, the design engineer must ensure that the maximum dew point of -76°F (-60°C) will not be exceeded at any time. ( )

ii. Air compression: ( )

(1) Air compressors ~~shall~~ will be of the liquid-ring or rotary lobe, oil-less, positive displacement type for smaller systems or dry rotary screw compressors for larger systems. (3-24-22)( )

(2) The air compressors ~~shall~~ will have the capacity to simultaneously provide for maximum ozone demand, provide the air flow required for purging the desiccant dryers (where required) and allow for standby capacity. (3-24-22)( )

(3) Air feed for the compressor ~~shall~~ will be drawn from a point protected from rain, condensation, mist, fog and contaminated air sources to minimize moisture and hydrocarbon content of the air supply. (3-24-22)( )

(4) A compressed air after-cooler, entrainment separator, or a combination of the two (2) with automatic drain ~~shall~~ will be provided prior to the dryers to reduce the water vapor. (3-24-22)( )

(5) A back-up air compressor must be provided so that ozone generation is not interrupted in the event of a break-down. ( )

iii. Air drying: ( )

(1) Dry, dust-free and oil-free feed gas must be provided to the ozone generator. Dry gas is essential to prevent formation of nitric acid, to increase the efficiency of ozone generation and to prevent damage to the generator dielectrics. Sufficient drying to a maximum dew point of -76°F (-60°C) must be provided at the end of the drying cycle. ( )

(2) Drying for high pressure systems may be accomplished using heatless desiccant dryers only. For low pressure systems, a refrigeration air dryer in series with heat-reactivated desiccant dryers ~~shall~~ will be used. (3-24-22)( )

(3) A refrigeration dryer capable of reducing inlet air temperature to 40°F (4°C) ~~shall~~ will be provided for low pressure air preparation systems. The dryer can be of the compressed refrigerant type or chilled water type. (3-24-22)( )

(4) For heat-reactivated desiccant dryers, the unit ~~shall~~ must contain two (2) desiccant filled towers complete with pressure relief valves, two (2) four-way valves and a heater. In addition, external type dryers ~~shall~~ must have a cooler unit and blowers. The size of the unit ~~shall~~ will be such that the specified dew point will be achieved during a minimum adsorption cycle time of sixteen (16) hours while operating at the maximum expected moisture loading conditions. (3-24-22)( )

(5) Multiple air dryers ~~shall~~ will be provided so that the ozone generation is not interrupted in the event of dryer breakdown. (3-24-22)( )

(6) Each dryer ~~shall~~ will be capable of venting “dry” gas to the atmosphere, prior to the ozone generator, to allow start-up when other dryers are “on-line.” (3-24-22)( )

iv. Air filters: ( )

(1) Air filters ~~shall~~ will be provided on the suction side of the air compressors, between the air compressors and the dryers and between the dryers and the ozone generators. (3-24-22)( )

(2) The filter before the desiccant dryers ~~shall will~~ be of the coalescing type and be capable of removing aerosol and particulates larger than 0.3 microns in diameter. The filter after the desiccant dryer ~~shall will~~ be of the particulate type and be capable of removing all particulates greater than 0.1 microns in diameter, or smaller if specified by the generator manufacturer. (3-24-22)( )

v. Piping in the air preparation system can be common grade steel, seamless copper, stainless steel or galvanized steel. The piping must be designed to withstand the maximum pressures in the air preparation system. ( )

b. The following requirements apply to the ozone generator: ( )

i. Capacity. ( )

(1) The production rating of the ozone generators ~~shall must~~ be stated in pounds per day and kWhr per pound at a maximum cooling water temperature and maximum ozone concentration. (3-24-22)( )

(2) The design ~~shall will~~ ensure that the minimum concentration of ozone in the generator exit gas will not be less than one (1) percent (by weight). (3-24-22)( )

(3) Generators ~~shall will~~ be sized to have sufficient reserve capacity so that the ~~system PWS~~ does not operate at peak capacity for extended periods of time resulting in premature breakdown of the dielectrics. (3-24-22)( )

(4) The production rate of ozone generators will decrease as the temperature of the coolant increases. If there is to be a variation in the supply temperature of the coolant throughout the year, then pertinent data ~~shall will~~ be used to determine production changes due to the temperature change of the supplied coolant. The design ~~shall will~~ ensure that the generators can produce the required ozone at maximum coolant temperature. (3-24-22)( )

(5) Appropriate ozone generator backup equipment must be provided. ( )

ii. ~~Electrical~~—The generators can be low, medium or high frequency type. Specifications ~~shall will~~ require that the transformers, electronic circuitry and other electrical hardware be proven, high quality components designed for ozone service. (3-24-22)( )

iii. ~~Cooling~~—Adequate cooling ~~shall must~~ be provided. The cooling water must be properly treated to minimize corrosion, scaling and microbiological fouling of the water side of the tubes. Where cooling water is treated, cross connection control ~~shall must~~ be provided to prevent contamination of the potable water supply. (3-24-22)( )

iv. ~~Materials~~—To prevent corrosion, the ozone generator shell and tubes ~~shall must~~ be constructed of Type 316L stainless steel. (3-24-22)( )

c. The following requirements apply to ozone contactors: ( )

i. Bubble diffusers. ( )

(1) Where disinfection is the primary application, a minimum of two (2) contact chambers, each equipped with baffles to prevent short circuiting and induce countercurrent flow, ~~shall will~~ be provided. Ozone ~~shall must~~ be applied using porous-tube or dome diffusers. (3-24-22)( )

(2) The minimum contact time ~~shall will~~ be ten (10) minutes. A shorter contact time (CT) may be approved by the Department if justified by appropriate design and “CT” considerations. (3-24-22)( )

(3) Where taste and odor control is of concern, multiple application points and contactors ~~shall will~~ be considered. (3-24-22)( )

(4) Contactors ~~shall will~~ be separate closed vessels that have no common walls with adjacent rooms.

The contactor must be kept under negative pressure and sufficient ozone monitors ~~shall will~~ be provided to protect worker safety. (3-24-22)( )

(5) Contact vessels can be made of reinforced concrete, stainless steel, fiberglass or other material which will be stable in the presence of residual ozone and ozone in the gas phase above the water level. If contact vessels are made of reinforced concrete, all reinforcement bars ~~shall must~~ be covered with a minimum of one and one-half (1.5) inches of concrete. (3-24-22)( )

(6) Where necessary, a system ~~shall is to~~ be provided between the contactor and the off-gas destruct unit to remove froth from the air and return the other to the contactor or other location acceptable to the ~~reviewing authority Department~~. If foaming is expected to be excessive, then a potable water spray system ~~shall must~~ be placed in the contactor head space. (3-24-22)( )

(7) All openings into the contactor for pipe connections, hatchways, etc. ~~shall must~~ be properly sealed using welds or ozone resistant gaskets such as Teflon or Hypalon. (3-24-22)( )

(8) Multiple sampling ports ~~shall must~~ be provided to enable sampling of each compartment's effluent water and to confirm "CT" calculations. (3-24-22)( )

(9) A pressure/vacuum relief valve ~~shall must~~ be provided in the contactor and piped to a location where there will be no damage to the destruction unit. (3-24-22)( )

(10) The depth of water in bubble diffuser contactors ~~shall must~~ be a minimum of eighteen (18) feet. The contactor ~~shall must~~ also have a minimum of three (3) feet of freeboard to allow for foaming. (3-24-22)( )

(11) All contactors ~~shall will~~ have provisions for cleaning, maintenance and drainage of the contactor. Each contactor compartment ~~shall must~~ also be equipped with an access hatchway. (3-24-22)( )

(12) Aeration diffusers ~~shall must~~ be fully serviceable by either cleaning or replacement. (3-24-22)( )

ii. Other contactors, such as the venturi or aspirating turbine mixer contactor, may be approved by the Department provided adequate ozone transfer is achieved and the required contact times and residuals can be met and verified. ( )

d. The following requirements apply to ozone destruction units: ( )

i. A system for treating the final off-gas from each contactor must be provided in order to meet safety and air quality standards. Acceptable systems include thermal destruction and thermal/catalytic destruction units. ( )

ii. The maximum allowable ozone concentration in the discharge is 0.1 ppm (by volume). ( )

iii. At least two (2) units shall be provided which are each capable of handling the entire gas flow. ( )

iv. Exhaust blowers ~~shall must~~ be provided in order to draw off-gas from the contactor into the destruct unit. (3-24-22)( )

v. Catalysts must be protected from froth, moisture and other impurities which may harm the catalyst. ( )

vi. The catalyst and heating elements ~~shall will~~ be located where they can easily be reached for maintenance. (3-24-22)( )

e. ~~Piping materials:~~ Only low carbon 304L and 316L stainless steels ~~shall may~~ be used for ozone service with 316L preferred. (3-24-22)( )

- f. The following requirements apply to joints and connections: ( )
- i. Connections on piping used for ozone service are to be welded where possible. ( )
  - ii. Connections with meters, valves or other equipment are to be made with flanged joints with ozone resistant gaskets, such as Teflon or Hypalon. Screwed fittings ~~shall~~ may not be used because of their tendency to leak. (3-24-22)( )
  - iii. A positive closing plug or butterfly valve plus a leak-proof check valve ~~shall~~ must be provided in the piping between the generator and the contactor to prevent moisture reaching the generator. (3-24-22)( )
- g. The following ~~requirements apply to~~ instrumentation must be provided: (3-24-22)( )
- i. Pressure gauges ~~shall be provided~~ at the discharge from the air compressor, at the inlet to the refrigeration dryers, at the inlet and outlet of the desiccant dryers, at the inlet to the ozone generators and contactors, and at the inlet to the ozone destruction unit. (3-24-22)( )
  - ii. ~~Each generator shall have a~~ trip which shuts down the generator when the wattage exceeds a certain preset level. (3-24-22)( )
  - iii. Dew point monitors ~~shall be provided~~ for measuring the moisture of the feed gas from the desiccant dryers. Where there is potential for moisture entering the ozone generator from downstream of the unit or where moisture accumulation can occur in the generator during shutdown, post-generator dew point monitors ~~shall~~ must be used. (3-24-22)( )
  - iv. Air flow meters ~~shall be provided~~ for measuring air flow from the desiccant dryers to each of the other ozone generators, air flow to each contactor, and purge air flow to the desiccant dryers. (3-24-22)( )
  - v. Temperature gauges ~~shall be provided~~ for the inlet and outlet of the ozone cooling water and the inlet and outlet of the ozone generator feed gas and, if necessary, for the inlet and outlet of the ozone power supply cooling water. (3-24-22)( )
  - vi. Water flow meters ~~shall be installed~~ to monitor the flow of cooling water to the ozone generators and, if necessary, to the ozone power supply. (3-24-22)( )
  - vii. Ozone monitors ~~shall be installed~~ to measure zone concentration in both the feed-gas and off-gas from the contactor and in the off-gas from the destruct unit. For disinfection systems, monitors ~~shall also be provided~~ for monitoring ozone residuals in the water. The number and location of ozone residual monitors ~~shall~~ must be such that the amount of time that the water is in contact with the ozone residual can be determined. (3-24-22)( )
  - viii. A minimum of one ambient ozone monitor ~~shall be~~ installed in the vicinity of the contactor and a minimum of one ~~shall be~~ installed in the vicinity of the generator. Ozone monitors ~~shall also~~ must be installed in any areas where ozone gas may accumulate. (3-24-22)( )
- h. Safety requirements are as follows: ( )
- i. The maximum allowable ozone concentration in the air to which workers may be exposed must not exceed one-tenth part per million (0.1 ppm) by volume. ( )
  - ii. Noise levels resulting from the operating equipment of the ozonation system ~~shall~~ must be controlled to within acceptable limits by special room construction and equipment isolation. (3-24-22)( )
  - iii. PWS owners must provide eEmergency exhaust fans ~~must be provided~~ in the rooms containing the ozone generators to remove ozone gas if leakage occurs. (3-24-22)( )
  - iv. PWS owners must post a sign ~~shall be posted~~ indicating “No smoking, oxygen in use” at all

entrances to the treatment plant. In addition, no flammable or combustible materials ~~shall may~~ be stored within the oxygen generator areas. (3-24-22)( )

**03. Disinfection with Chlorine Dioxide.** Chlorine dioxide may be considered as a primary and residual disinfectant, a pre-oxidant to control tastes and odors, to oxidize iron and manganese, and to control hydrogen sulfide and phenolic compounds. When choosing chlorine dioxide, consideration must be given to formation of the regulated by-products, chlorite and chlorate. ( )

**a.** Chlorine dioxide generation equipment ~~shall must~~ be factory assembled pre-engineered units with a minimum efficiency of ninety-five (95) percent. The excess free chlorine ~~shall may~~ not exceed three (3) percent of the theoretical stoichiometric concentration required. (3-24-22)( )

**b.** Other design requirements include: ( )

**i.** The design ~~shall must~~ comply with all applicable portions of Subsections 530.01.a. through 530.01.d. (3-24-22)( )

**ii.** The maximum residual disinfectant level allowed ~~shall be is~~ zero point eight (0.8) milligrams per liter (mg/l), even for short term exposures. (3-24-22)( )

**iii.** Notification of a change in disinfection practices and the schedule for the changes ~~shall must~~ be made known to the public; particularly to hospitals, kidney dialysis facilities and fish breeders, as chlorine dioxide and its by-products may have effects similar to chloramines. (3-24-22)( )

**04. Other Disinfecting Agents.** Proposals for use of disinfecting agents other than those listed ~~shall must~~ be submitted to the Department for approval ~~prior to preparation of final plans and specifications; in the preliminary engineering report required under Section 503.~~ (3-24-22)( )

**531. ~~FACILITY AND DESIGN STANDARDS:~~ DESIGN STANDARDS FOR CHEMICAL APPLICATION.**

**01. General Equipment Design.** General equipment design ~~shall must~~ be such that: (3-24-22)( )

**a.** Feeders will be able to supply, at all times, the necessary amounts of chemicals at an accurate rate, throughout the range of feed. ( )

**b.** Chemical-contact materials and surfaces are resistant to the aggressiveness of the chemical solution. ( )

**c.** Corrosive chemicals are introduced in such a manner as to minimize potential for corrosion. ( )

**d.** Chemicals that are incompatible are not stored or handled together. At facilities where more than one (1) chemical is stored or handled, tanks and pipelines ~~shall must~~ be clearly labeled to identify the chemical they contain. (3-24-22)( )

**e.** All chemicals are conducted from the feeder to the point of application in separate conduits. ( )

**f.** Chemical feeders are as near as practical to the feed point. ( )

**g.** Chemical feeders and pumps ~~shall must~~ operate at no lower than twenty percent (20%) of the feed range unless two fully independent adjustment mechanisms such as pump pulse rate and stroke length are fitted, ~~when the pump shall must~~ operate at no lower than ten percent (10%) of the rated maximum. (3-24-22)( )

**h.** Spare parts ~~shall must~~ be on hand for parts of feeders that are subject to frequent wear and damage. (3-24-22)( )

i. Redundant chemical feeders with automatic switchover ~~shall~~ must be provided when necessary to ensure adequate treatment. If the water treatment system includes at least two (2) process trains of equipment so that the plant design capacity can be maintained with any component out of service, redundant chemical feeders are not required on each process train. (3-24-22)( )

**02. Facility Design.** ( )

a. Where chemical feed is necessary for the protection of the supply, such as disinfection, coagulation or other essential processes, a minimum of two feeders ~~shall~~ must be provided and a separate feeder ~~shall~~ will be used for each chemical applied. (3-24-22)( )

b. Chemical application control systems ~~shall~~ must meet the following requirements: (3-24-22)( )

i. Feeders may be manually or automatically controlled, with automatic controls being designed so as to allow override by manual controls. ( )

ii. Chemical feeders shall be controlled by a flow sensing device so that injection of the chemicals will not continue when the flow of water stops. (3-24-22)( )

iii. Automatic proportioning chlorinators are required where the rate of flow or chlorine demand is not reasonably constant. (3-24-22)( )

iv. A means to measure water flow must be provided in order to determine chemical feed rates. ( )

v. Provisions ~~shall~~ will be made for measuring the quantities of chemicals used. (3-24-22)( )

vi. Weighing scales ~~shall~~ will be provided for weighing cylinders at all plants utilizing chlorine gas, fluoride solution feed. (3-24-22)( )

vii. Weighing scales ~~shall~~ must be capable of providing reasonable precision in relation to average daily dose. (3-24-22)( )

viii. Where conditions warrant, for example with rapidly fluctuating intake turbidity, coagulant and coagulant aid addition may be made according to turbidity, streaming current or other sensed parameter. ( )

c. Dry chemical feeders ~~shall~~ will measure chemicals volumetrically or gravimetrically, provide adequate solution water and agitation of the chemical in the solution pot, and completely enclose chemicals to prevent emission of dust to the operating room. (3-24-22)( )

d. Positive displacement type solution feed pumps must be capable of operating at the required maximum head conditions found at the point of injection. ( )

e. Liquid chemical feeders ~~shall~~ must be such that chemical solutions cannot be siphoned or overfed into the water supply, by assuring discharge at a point of positive pressure, or providing vacuum relief, or providing a suitable air gap, or providing other suitable means or combinations as necessary. (3-24-22)( )

f. Cross connection control must be provided to assure that the following requirements are satisfied. ( )

i. The service water lines discharging to solution tanks ~~shall~~ must be properly protected from backflow. (3-24-22)( )

ii. No direct connection exists between any sewer and a drain or overflow from the feeder, solution chamber or tank by providing that all drains terminate at least six (6) inches or two pipe diameters, whichever is

- greater, above the overflow rim of a receiving sump, conduit or waste receptacle. ( )
- g. Chemical feed equipment ~~shall~~ must be readily accessible for servicing, repair, and observation of operation. (3-24-22)( )
- h. In-plant water supply for chemical mixing ~~shall~~ must be: (3-24-22)( )
- i. Ample in quantity and adequate in pressure. ( )
- ii. Provided with means for measurement when preparing specific solution concentrations by dilution. ( )
- iii. Properly treated for hardness, when necessary. ( )
- iv. Properly protected against backflow. ( )
- v. Obtained from a location sufficiently downstream of any chemical feed point to assure adequate mixing. ( )
- i. Chemical storage facilities ~~shall~~ must satisfy the following requirements: (3-24-22)( )
- i. Storage tanks and pipelines for liquid chemicals ~~shall~~ must be specified for use with individual chemicals and not used for different chemicals. Off-loading areas must be clearly labeled to prevent accidental cross-contamination. (3-24-22)( )
- ii. Chemicals ~~shall~~ will be stored in covered or unopened shipping containers, unless the chemical is transferred into an approved storage unit. (3-24-22)( )
- j. Bulk liquid storage tanks ~~shall~~ must comply with the following requirements: (3-24-22)( )
- i. A means which is consistent with the nature of the chemical ~~solution shall~~ stored will be provided in a ~~solution~~ liquid storage tank to maintain a uniform strength of solution. Continuous agitation ~~shall~~ will be provided to maintain slurries in suspension. (3-24-22)( )
- ii. Means ~~shall~~ will be provided to measure the liquid level in the tank. (3-24-22)( )
- iii. Bulk liquid storage tanks ~~shall~~ will be kept covered. Bulk liquid storage tanks with access openings ~~shall~~ will have such openings curbed and fitted with overhanging covers. (3-24-22)( )
- iv. Subsurface locations for bulk liquid storage tanks ~~shall~~ will be free from sources of possible contamination, and assure positive drainage for ground-waters, accumulated water, chemical spills and overflows. (3-24-22)( )
- v. Bulk liquid storage tanks ~~shall~~ will be vented, but ~~shall~~ may not vent through vents common with other chemicals or day tanks. Acid storage tanks must be vented to the outside atmosphere, but not through vents in common with other chemicals or day tanks. (3-24-22)( )
- vi. Each bulk liquid storage tank ~~shall~~ will be provided with a valved drain, protected against backflow and cross-connections. (3-24-22)( )
- vii. Bulk liquid storage tanks ~~shall~~ will have an overflow, when provided, that is turned downward with the end screened with a twenty-four (24) mesh or similar non-corrodible screen, have a free fall discharge, and be located where noticeable. (3-24-22)( )
- viii. Where chemical feed is necessary for the protection of the supply, a means to assure continuity of chemical supply while servicing a bulk liquid storage tank will be provided. ( )



~~viii~~ix. Bulk liquid storage tanks ~~shall will~~ be provided with secondary containment so that chemicals from equipment failure, spillage, or accidental drainage ~~shall be fully contained will not enter the water in conduits, treatment, or storage basins~~. A common receiving basin may be provided for each group of compatible chemicals. The bulk liquid storage tank basin or the common receiving basin ~~shall will~~ provide a secondary containment volume sufficient to hold one hundred ten percent (110%) of the volume of the largest storage tank. Piping ~~shall will~~ be designed to minimize or contain chemical spills in the event of pipe ruptures. (3-24-22)( )

~~ix~~. Where chemical feed is necessary for the protection of the supply, a means to assure continuity of chemical supply while servicing a bulk liquid storage tank shall be provided. (3-24-22)

k. Day tanks ~~are subject to the requirements in Subsections 531.02.k.i. through 531.02.k.iv. will be provided where bulk storage of liquid chemical is provided. However, upon approval by the Department, chemicals may be fed directly from shipping containers no larger than fifty-five (55) gallons~~. For the purposes of Section 531, day tanks are defined as liquid chemical tanks holding no more than a thirty (30) hour chemical supply. (3-24-22)( )

i. Day tanks ~~shall be provided where bulk storage of liquid chemicals are provided. The Department may allow chemicals to be fed directly from shipping containers no larger than fifty five (55) gallons are subject to the requirements in Subsections 531.02.j.i. through 531.02.j.vii. except shipping containers do not require overflow pipe and drains~~. (3-24-22)( )

~~ii~~. Day tanks ~~shall meet all the requirements of Subsection 531.02.j., with the exception of Subsection 531.02.j.viii. Shipping containers do not require overflow pipes or drains as required by Subsection 531.02.j. and are not subject to the requirements of Subsection 531.02.j.viii~~. (3-24-22)

iii. Where feasible, secondary containment ~~shall will~~ be provided so that chemicals from equipment failure, spillage, or accidental drainage of day tanks ~~shall will~~ be fully contained. A common receiving basin may be provided for each group of compatible chemicals. The common receiving basin ~~shall will~~ provide a secondary containment volume sufficient to hold the volume of the largest storage tank. If secondary containment is not feasible, day tanks ~~shall will~~ be located and protective curbing provided so that chemicals from equipment failure, spillage, or accidental drainage of day tanks ~~shall will~~ not enter the water in conduits, treatment, or storage basins. Secondary containment is not required for a day tank if an Idaho licensed professional engineer demonstrates to the Department that the chemical concentration and volume, if spilled, will not be a safety hazard to employees, will not be hazardous to the public health, and will not harm the environment. (3-24-22)( )

~~iv~~iii. Day tanks and the tank refilling line entry points ~~shall will~~ be clearly labeled with the name of the chemical contained. (3-24-22)( )

~~iv~~. Filling of day tanks may not be automated unless otherwise approved by the Department. ( )

l. Provisions ~~shall must~~ be made for measuring quantities of chemicals used to prepare feed solutions. (3-24-22)( )

m. Vents from feeders, storage facilities and equipment exhaust ~~shall must~~ discharge to the outside atmosphere above grade and remote from air intakes. (3-24-22)( )

03. **Chemicals.** Chemical shipping containers ~~shall must~~ be fully labeled to include chemical name, purity and concentration, supplier name and address, and evidence of ANSI/NSF certification where applicable. (3-24-22)( )

04. **Safety Requirements for Chemical Facilities.** ( )

a. The following requirements apply to chlorine gas feed and storage rooms: ( )

i. Each storage room ~~shall will~~ be enclosed and separated from other operating areas. They ~~shall will~~ be constructed in such a manner that all openings between the chlorine room and the remainder of the plant are sealed, and provided with doors equipped with panic hardware, assuring ready means of exit and opening outward

- only to the building exterior. (3-24-22)( )
- ii. Each room ~~shall~~ will be provided with a shatter resistant inspection window installed in an interior wall. (3-24-22)( )
- iii. Each room ~~shall~~ will have a ventilating fan with a capacity which provides one (1) complete air change per minute when the room is occupied. Where this is not appropriate due to the size of the room, a lesser rate may be allowed by the Department on a site specific basis. (3-24-22)( )
- iv. The ventilating fan ~~shall~~ will take suction near the floor as far as practical from the door and air inlet, with the point of discharge ~~so~~ located as ~~not to contaminate~~ far away as possible from doors, air inlets to any rooms or structures ~~or occupied areas~~. Air inlets ~~shall~~ will be through louvers near the ceiling. (3-24-22)( )
- v. Louvers for chlorine room air intake and exhaust ~~shall~~ will facilitate airtight closure. (3-24-22)( )
- vi. Separate switches for the fan and lights ~~shall~~ will be located outside of the chlorine room and at the inspection window. Outside switches ~~shall~~ will be protected from vandalism. A signal light indicating fan operation ~~shall~~ will be provided at each entrance when the fan can be controlled from more than one (1) point. (3-24-22)( )
- vii. Vents from feeders and storage ~~shall~~ will discharge to the outside atmosphere, above grade. (3-24-22)( )
- viii. Where provided, floor drains ~~shall~~ will discharge to the outside of the building and ~~shall~~ will not be connected to any internal drainage systems or external drainage systems unless the external drainage systems drain to an approved discharge point. (3-24-22)( )
- ix. Chlorinator rooms ~~shall~~ will be heated to sixty degrees Fahrenheit (60°F) and be protected from excessive heat. Cylinders and gas lines ~~shall~~ will be protected from temperatures above that of the feed equipment. (3-24-22)( )
- x. Pressurized chlorine feed lines ~~shall~~ may not carry chlorine gas beyond the chlorinator room. (3-24-22)( )
- xi. Critical isolation valves ~~shall~~ will be conspicuously marked and access kept unobstructed. (3-24-22)( )
- xii. All chlorine rooms, buildings, and areas ~~shall~~ will be posted with a prominent danger sign warning of the presence of chlorine. (3-24-22)( )
- xiii. Full and empty cylinders of chlorine gas ~~shall~~ will be isolated from operating areas and stored in definitely assigned places away from elevators, stairs, or gangways. They ~~shall~~ will be restrained in position to prevent being knocked over or damaged by passing or falling objects. In addition, they ~~shall~~ will be stored in rooms separate from ammonia storage, out of direct sunlight, and at least twenty (20) feet from highly combustible materials. Cylinders ~~shall~~ may not be kept in unventilated enclosures such as lockers and cupboards. (3-24-22)( )
- b. Where acids and caustics are used, they ~~shall~~ must be kept in closed corrosion-resistant shipping containers or storage units. Acids and caustics ~~shall~~ may not be handled in open vessels, but ~~shall~~ will be pumped in undiluted form from original containers through suitable hose to the point of treatment or to a covered day tank. (3-24-22)( )
- c. ~~Sodium chlorite for chlorine dioxide generation.~~ Proposals for the storage and use of sodium chlorite ~~shall~~ must be approved by the Department prior to the preparation of final plans and specifications. Provisions ~~shall~~ must be made for proper storage and handling of sodium chlorite to eliminate any danger of fire or explosion associated with its oxidizing nature. (3-24-22)( )

i. Chlorite (sodium chlorite) ~~shall will~~ be stored by itself in a separate room. It must be stored away from organic materials. The storage structure ~~shall will~~ be constructed of noncombustible materials. If the storage structure must be located in an area where a fire may occur, water must be available to keep the sodium chlorite area cool enough to prevent heat-induced explosive decomposition of the chlorite. (3-24-22)( )

ii. Care ~~shall will~~ be taken to prevent spillage. An emergency plan of operation ~~shall will~~ be available for the clean up of any spillage. Storage drums ~~shall will~~ be thoroughly flushed prior to recycling or disposal. (3-24-22)( )

d. Where ammonium hydroxide is used, an exhaust fan ~~shall must~~ be installed to withdraw air from high points in the room and makeup air ~~shall must~~ be allowed to enter at a low point. The feed pump, regulators, and lines ~~shall must~~ be fitted with pressure relief vents discharging outside the building away from any air intake and with water purge lines leading back to the headspace of the bulk storage tank. (3-24-22)( )

e. Where anhydrous ammonia is used, the storage and feed systems (including heaters where required) ~~shall must~~ be enclosed and separated from other work areas and constructed of corrosion resistant materials. (3-24-22)( )

i. Pressurized ammonia feed lines ~~shall will~~ be restricted to the ammonia room. (3-24-22)( )

ii. An emergency air exhaust system, as described in Subsection 531.04.a., but with an elevated intake, ~~shall must~~ be provided in the ammonia storage room. (3-24-22)( )

iii. Leak detection systems ~~shall must~~ be fitted in all areas through which ammonia is piped. (3-24-22)( )

iv. Special vacuum breaker/regulator provisions must be made to avoid potentially violent results of backflow of water into cylinders or storage tanks. ( )

v. Consideration ~~shall must~~ be given to the provision of an emergency gas scrubber capable of absorbing the entire contents of the largest ammonia storage unit whenever there is a risk to the public as a result of potential ammonia leaks. (3-24-22)( )

**05. Operator Safety.** The Idaho General Safety and Health Standards, referenced in Subsection 002.02, may be used as guidance in designing facilities to ensure the safety of operators. ~~The following requirements are in addition to the requirements of Subsection 501.12.~~ Facilities must meet applicable regulations from the Occupational Health and Safety Administration. (3-24-22)( )

~~a. Respiratory protection equipment, meeting the requirements of the National Institute for Occupational Safety and Health (NIOSH) shall be available where chlorine gas is handled, and shall be stored at a convenient heated location, but not inside any room where chlorine is used or stored. The units shall use compressed air, have at least a thirty (30) minute capacity, and be compatible with or exactly the same as units used by the fire department responsible for the plant. (3-24-22)~~

~~b. Chlorine leak detection. A bottle of concentrated ammonium hydroxide (fifty-six (56) per cent ammonia solution) shall be available for chlorine leak detection. Where ton containers are used, a leak repair kit approved by the Chlorine Institute shall be provided. (3-24-22)~~

~~c. Protective equipment. (3-24-22)~~

~~i. At least one pair of rubber gloves, a dust respirator of a type certified by NIOSH for toxic dusts, an apron or other protective clothing, and goggles or face mask shall be provided for each operator. (3-24-22)~~

~~ii. A deluge shower and eyewashing device shall be installed where strong acids and alkalis are used or stored. A water holding tank that will allow water to come to room temperature shall be installed in the water line feeding the deluge shower and eyewashing device. Other methods of water tempering will be considered on an~~

~~individual basis.~~ (3-24-22)

~~iii. For chemicals other than strong acids and alkalis, an appropriate eye washing device or station shall be provided.~~ (3-24-22)

~~iv. Other protective equipment shall be provided as necessary.~~ (3-24-22)

**06. Design Requirements for Specific Applications.** In addition to Subsection 531.01 through 531.03, the following design requirements apply for the specific applications within Subsection 531.06 of this rule. ( )

a. ~~Sodium chlorite for chlorine dioxide generation.~~ Positive displacement feeders ~~shall will~~ be provided ~~for sodium chlorite used for chlorine dioxide generation.~~ Tubing for conveying sodium chlorite or chlorine dioxide solutions ~~shall must~~ be Type 1 PVC, polyethylene or materials recommended by the manufacturer. Chemical feeders may be installed in chlorine rooms if sufficient space is provided. Otherwise, facilities meeting the requirements of chlorine rooms ~~shall will~~ be provided. Feed lines ~~shall will~~ be installed in a manner to prevent formation of gas pockets and ~~shall will~~ terminate at a point of positive pressure. Check valves ~~shall will~~ be provided to prevent the backflow of chlorine into the sodium chlorite line. (3-24-22)( )

b. Hypochlorite facilities ~~shall must~~ meet the following requirements: (3-24-22)( )

i. Hypochlorite ~~shall will~~ be stored in the original shipping containers or in hypochlorite compatible containers. Storage containers or tanks ~~shall will~~ be sited out of the sunlight in a cool and ventilated area. (3-24-22)( )

ii. Stored hypochlorite ~~shall will~~ be pumped undiluted to the point of addition. Where dilution is unavoidable, deionized or softened water ~~shall will~~ be used unless otherwise approved by the Department. (3-24-22)( )

iii. Storage areas, tanks, and pipe work ~~shall will~~ be designed to avoid the possibility of uncontrolled discharges and a sufficient amount of appropriately selected spill absorbent ~~shall will~~ be stored on-site. (3-24-22)( )

iv. Hypochlorite feeders ~~shall will~~ be positive displacement pumps with compatible materials for wetted surfaces. (3-24-22)( )

v. To avoid air locking in smaller installations, small diameter suction lines ~~shall will~~ be used with foot valves and degassing pump heads. In larger installations flooded suction ~~shall will~~ be used with pipe work arranged to ease escape of gas bubbles. Calibration tubes or mass flow monitors which allow for direct physical checking of actual feed rates ~~shall will~~ be fitted. (3-24-22)( )

vi. Injectors ~~shall will~~ be made removable for regular cleaning where hard water is to be treated. (3-24-22)( )

c. When ammonium sulfate is used, the tank and dosing equipment contact surfaces ~~shall must~~ be made of corrosion resistant non-metallic materials. Provision ~~shall will~~ be made for removal of the agitator after dissolving the solid. The tank ~~shall will~~ be fitted with a lid and vented outdoors. Injection of the solution ~~should will~~ take place in the center of treated water flow at a location where there is high velocity movement. (3-24-22)( )

d. When aqua ammonia (ammonium hydroxide) is used, the feed pumps and storage ~~shall will~~ be enclosed and separated from other operating areas. The aqua ammonia room ~~shall will~~ be equipped as required for chlorinator rooms with the following changes: (3-24-22)( )

i. A corrosion resistant, closed, unpressurized tank ~~shall will~~ be used for bulk storage, vented through an inert liquid trap to a high point outside and an incompatible connector, or lockout provisions ~~shall will~~ be made to prevent accidental addition of other chemicals to the storage tank. (3-24-22)( )

ii. The storage tank ~~shall~~ will be designed to avoid conditions where temperature increases cause the ammonia vapor pressure over the aqua ammonia to exceed atmospheric pressure. This capability can be provided by cooling/refrigeration or diluting or mixing the contents with water without opening the system. (3-24-22)( )

iii. The aqua ammonia ~~shall~~ will be conveyed direct from storage to the treated water stream injector without the use of a carrier water stream unless the carrier stream is softened. (3-24-22)( )

iv. The point of delivery to the main water stream ~~shall~~ will be placed in a region of turbulent water flow. (3-24-22)( )

v. Provisions ~~shall~~ will be made for easy access for removal of calcium scale deposits from the injector. (3-24-22)( )

**532. ~~FACILITY AND DESIGN STANDARDS:~~ DESIGN STANDARDS FOR SOFTENING.**

The softening process selected must be based upon the mineral qualities of the raw water and the desired finished water quality in conjunction with requirements for disposal of sludge or brine waste (see Section 540), cost of plant, cost of chemicals, and plant location. Applicability of the process chosen ~~shall~~ must be demonstrated. (3-24-22)( )

**01. Lime or Lime-Soda Process.** Rapid mix, flocculation, and sedimentation processes ~~shall~~ must meet the requirements of Section 520. In addition the following requirements must be met: (3-24-22)( )

a. When split treatment is used, an accurate means of measuring and splitting the flow must be provided. ( )

b. Rapid mix basins must provide not more than thirty (30) seconds detention time with adequate velocity gradients to keep the lime particles dispersed. ( )

c. Equipment for stabilization of water softened by the lime or lime-soda process is required, see Section 537. ( )

d. Mechanical sludge removal equipment ~~shall~~ will be provided in the sedimentation basin. (3-24-22)( )

e. Provisions must be included for proper disposal of softening sludges; see Section 540. ( )

f. The plant processes must be manually started following shut-down. ( )

**02. Cation Exchange Process.** ( )

a. Pre-treatment is required when the content of iron, manganese, or a combination of the two, is one milligram per liter (1 mg/l) or more. ( )

b. The units may be of pressure or gravity type, of either an upflow or downflow design. Automatic regeneration based on volume of water softened ~~shall~~ will be used unless manual regeneration is justified and is approved by the Department. A manual override ~~shall~~ will be provided on all automatic controls. (3-24-22)( )

c. Rate-of-flow controllers or the equivalent ~~shall~~ will be used to control the hydraulic loading of cation exchange units. (3-24-22)( )

d. The bottoms, strainer systems and support for the exchange resin ~~shall~~ will conform to the criteria provided for rapid rate gravity filters in Section 521. (3-24-22)( )

e. ~~Cross Connection Control.~~ Backwash, rinse and air relief discharge pipes ~~shall~~ will be installed in such a manner as to prevent any possibility of back-siphonage. (3-24-22)( )

f. A bypass must be provided around softening units to produce a blended water of desirable

hardness. Totalizing meters must be installed on the bypass line and on each softener unit. The bypass line must have a shutoff valve. ( )

**g.** When the applied water contains a chlorine residual, the cation exchange resin ~~shall~~ **must** be a type that is not damaged by residual chlorine. (3-24-22)( )

**h.** Smooth-nose sampling taps must be provided for the collection of representative samples. The taps ~~shall~~ **will** be located to provide for sampling of the softener influent, effluent, blended water, and on the brine tank discharge piping. The sampling taps for the blended water ~~shall~~ **will** be at least twenty (20) feet downstream from the point of blending. Petcocks are not acceptable as sampling taps. (3-24-22)( )

**i.** Brine and salt storage tanks ~~shall~~ **must** meet the following requirements: (3-24-22)( )

i. Salt dissolving or brine tanks and wet salt storage tanks must be covered and must be corrosion-resistant. ( )

ii. The make-up water inlet must be protected from back-siphonage. ( )

iii. Wet salt storage basins must be equipped with manholes or hatchways for access and for direct dumping of salt from truck or railcar. Openings must be provided with raised curbs and watertight covers having overlapping edges similar to those required for finished water reservoirs. ( )

iv. Overflows, where provided, must be protected with twenty-four (24) mesh or similar non-corrodible screens, and must terminate with either a turned down bend having a proper free fall discharge or a self-closing flap valve. ( )

v. The salt ~~shall~~ **will** be supported on graduated layers of gravel placed over a brine collection system. (3-24-22)( )

vi. Alternative designs which are conducive to frequent cleaning of the wet salt storage tank may be considered. ( )

vii. An eductor may be used to transfer brine from the brine tank to the softeners. If a pump is used, a brine measuring tank or means of metering ~~shall~~ **will** be provided to obtain the proper dilution. (3-24-22)( )

**j.** Suitable disposal must be provided for brine waste; see Section 540. Where the volume of spent brine must be reduced, consideration may be given to using a part of the spent liquid concentrate for a subsequent regeneration. ( )

**k.** Pipes and contact materials must be resistant to the aggressiveness of salt. Plastic and red brass are acceptable piping materials. Steel and concrete must be coated with a non-leaching protective coating which is compatible with salt and brine. ( )

**l.** Bagged salt and dry bulk salt storage ~~shall~~ **will** be enclosed and separated from other operating areas in order to prevent damage to equipment. (3-24-22)( )

**533. ~~FACILITY AND DESIGN STANDARDS:~~ DESIGN STANDARDS FOR TASTE AND ODOR CONTROL.**

Provision ~~shall~~ **must** be made for the control of taste and odor. Chemicals ~~shall~~ **must** be added sufficiently ahead of other treatment processes to assure adequate contact time for an effective and economical use of the chemicals. Where severe taste and odor problems are encountered, in-plant studies, pilot plant studies, or both in-plant and pilot plant studies may be required. ~~See in accordance with~~ Subsection 501.19 ~~for general information on conducting pilot studies.~~ (3-24-22)( )

**01. Chlorination.** When using chlorination as a method of taste and odor control adequate contact time must be provided to complete the chemical reactions involved. ( )

02. **Chlorine Dioxide.** Provisions ~~shall~~ must be made for proper storing and handling of the sodium chlorite, so as to eliminate any danger of explosion. (3-24-22)( )

03. **Powdered Activated Carbon.** ( )

a. The PWS owner can add carbon ~~can be added~~ as a pre-mixed slurry or by means of a dry-feed machine as long as the carbon is properly wetted. (3-24-22)( )

b. Continuous agitation or resuspension equipment is necessary to keep the carbon from depositing in the slurry storage tank. ( )

c. ~~Provision shall be made~~ The PWS owner must provide for adequate dust control. (3-24-22)( )

d. The PWS owner must handle powdered activated carbon ~~shall be handled~~ as a potentially combustible material. (3-24-22)( )

04. **Granular Activated Carbon.** Replacement of anthracite with GAC may be considered as a control measure for geosmin and methyl isoborneol (MIB) taste and odors from algae blooms in surface water applications. Demonstration studies are required by the Department. ( )

05. **Copper Sulfate and Other Copper Compounds.** Continuous or periodic treatment of surface water with copper compounds to kill algae or other growths ~~shall~~ must be controlled to prevent copper in excess of one point zero (1.0) milligrams per liter as copper in the plant effluent or distribution system. Care ~~shall~~ must be taken to assure an even distribution of the chemical within the treatment area. (3-24-22)( )

06. **Potassium Permanganate.** Application of potassium permanganate may be considered, providing the treatment ~~shall~~ will be designed so that the products of the reaction are not visible in the finished water. (3-24-22)( )

07. **Ozone.** Ozonation may be used as a means of taste and odor control. Adequate contact time must be provided to complete the chemical reactions involved. ( )

08. **Other Methods.** Other methods of taste and odor control ~~shall~~ may be made only after pilot plant tests and approval of the Department. (3-24-22)( )

534. ~~FACILITY AND DESIGN STANDARDS: AERATION PROCESSES.~~

~~Public water systems~~ PWS owners that install aeration treatment are subject to ~~the Rules of the Department of Environmental Quality, IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho."~~ The ~~system~~ PWS owner or the design engineer ~~shall~~ must contact one of the Department's regional offices for information on obtaining a permit or an exemption for the emissions resulting from the aeration process. General information may be found on the ~~DEQ~~ Department website <http://www.deq.idaho.gov>. (3-24-22)( )

01. **Natural Draft Aeration.** Design ~~shall~~ must provide: (3-24-22)( )

a. Perforations in the distribution pan three sixteenths to one-half (3/16 – 1/2) inches in diameter, spaced one to three (1-3) inches on centers to maintain a six (6) inch water depth. ( )

b. ~~For a~~ Distribution of water uniformly over the top tray. (3-24-22)( )

c. Discharge through a series of three (3) or more trays with separation of trays not less than twelve (12) inches. ( )

d. Loading at a rate of one to five (1-5) gallons per minute for each square foot of total tray area. ( )

e. Trays with slotted, heavy wire (1/2 inch openings) mesh or perforated bottoms. ( )

- f. Construction of durable material resistant to aggressiveness of the water and dissolved gases. ( )
- g. Protection from insects by twenty-four (24) mesh or similar non-corrodible screen. ( )
- 02. Forced or Induced Draft Aeration.** ~~Devices shall be designed to~~ Design must provide: (3-24-22)( )
- a. Include a blower with a weatherproof motor in a tight housing and screened enclosure. ( )
- b. Ensure adequate counter current of air through the enclosed aerator column. ( )
- c. Exhaust air directly to the outside atmosphere. ( )
- d. Include a down-turned and twenty-four (24) mesh or similar non-corrodible screened air outlet and inlet. ( )
- e. Be such that air introduced in the column ~~shall~~ will be as free from obnoxious fumes, dust, and dirt as possible. (3-24-22)( )
- f. Be such that sections of the aerator can be easily reached or removed for maintenance of the interior or installed in a separate aerator room. ( )
- g. Provide loading at a rate of one to five (1-5) gallons per minute for each square foot of total tray area. ( )
- h. Ensure that the water outlet is adequately sealed to prevent unwarranted loss of air. ( )
- i. Discharge through a series of five (5) or more trays with separation of trays not less than six (6) inches or as approved by the Department. ( )
- j. Provide distribution of water uniformly over the top tray. ( )
- k. Be of durable material resistant to the aggressiveness of the water and dissolved gases. ( )
- 03. Spray Aeration.** Design ~~shall~~ must provide: (3-24-22)( )
- a. A hydraulic head of between five (5) and twenty-five (25) feet. ( )
- b. Nozzles, with the size, number, and spacing of the nozzles being dependent on the flowrate, space, and the amount of head available. ( )
- c. Nozzle diameters in the range of one (1) to one and one-half (1.5) inches to minimize clogging. ( )
- d. An enclosed basin to contain the spray. Any openings for ventilation must be protected with a twenty-four (24) mesh or similar non-corrodible screen. ( )
- 04. Pressure Aeration.** Pressure aeration may be used for oxidation purposes only if the pilot plant study indicates the method is applicable; it is not acceptable for removal of dissolved gases. ~~See Subsection 501.19 for general information on conducting pilot studies.~~ Filters following pressure aeration must have adequate exhaust devices for release of air. Pressure aeration devices ~~shall~~ must be designed to give thorough mixing of compressed air with water being treated and provide twenty-four (24) mesh or similar non-corrodible screened and filtered air, free of obnoxious fumes, dust, dirt and other contaminants. (3-24-22)( )
- 05. Packed Tower Aeration.** Packed tower aeration may be used for the removal of volatile organic chemicals, trihalomethanes, carbon dioxide, and radon. Final design ~~shall~~ must be based on the results of pilot studies



and be approved by the Department. (3-24-22)( )

a. Process design criteria. ( )

i. Justification for the design parameters selected (i.e., height and diameter of unit, air to water ratio, packing depth, surface loading rate, etc.) ~~shall~~ must be provided to the Department for review. The pilot study ~~shall~~ must evaluate a variety of loading rates and air to water ratios at the peak contaminant concentration. Special consideration ~~shall~~ will be given to removal efficiencies when multiple contaminations occur. Where there is considerable past performance data on the contaminant to be treated and there is a concentration level similar to previous projects, the Department may approve the process design based on use of appropriate calculations without a pilot study. (3-24-22)( )

ii. The tower ~~shall~~ must be designed to reduce contaminants to below the maximum contaminant level and to the lowest practical level. (3-24-22)( )

iii. The type and size of the packing used in the full scale unit ~~shall~~ must be the same as that used in the pilot study. (3-24-22)( )

iv. The maximum air to water ratio for which credit will be given is 80:1. ( )

v. The design ~~shall~~ must consider potential fouling problems from calcium carbonate and iron precipitation and from bacterial growth. It may be necessary to provide pretreatment. Disinfection capability ~~shall~~ will be provided prior to and after packed tower aeration. (3-24-22)( )

vi. The effects of temperature ~~shall~~ must be considered. (3-24-22)( )

vii. Redundant packed tower aeration capacity at the design flowrate ~~shall~~ will be provided. (3-24-22)( )

b. The tower may be constructed of stainless steel, concrete, aluminum, fiberglass or plastic. Uncoated carbon steel is not allowed. Towers constructed of light-weight materials ~~shall~~ must be provided with adequate support to prevent damage from wind. Packing materials ~~shall~~ must be resistant to the aggressiveness of the water, dissolved gases and cleaning materials and ~~shall~~ must be suitable for contact with potable water. (3-24-22)( )

c. Water flow system. ( )

i. Water ~~shall~~ must be distributed uniformly at the top of the tower using spray nozzles or orifice-type distributor trays that prevent short circuiting. (3-24-22)( )

ii. A mist eliminator ~~shall~~ must be provided above the water distributor system. (3-24-22)( )

iii. A side wiper redistribution ring ~~shall~~ must be provided at least every ten (10) feet in order to prevent water channeling along the tower wall and short circuiting. (3-24-22)( )

iv. Sample taps ~~shall~~ must be provided in the influent and effluent piping. The sample taps ~~shall~~ must satisfy the requirements of Subsection 501.09. (3-24-22)( )

v. The effluent sump, if provided, ~~shall~~ must have easy access for cleaning purposes and be equipped with a drain valve. The drain ~~shall~~ may not be connected directly to any storm or sanitary sewer. (3-24-22)( )

vi. The design ~~shall~~ must prevent freezing of the influent riser and effluent piping when the unit is not operating. (3-24-22)( )

vii. The water flow to each tower ~~shall~~ must be metered. (3-24-22)( )

viii. An overflow line ~~shall~~ must be provided which discharges twelve (12) to fourteen (14) inches

above a splash pad or drainage inlet. Proper drainage ~~shall~~ must be provided to prevent flooding of the area. (3-24-22)( )

- ix. Means ~~shall~~ must be provided to prevent flooding of the air blower. (3-24-22)( )
- d. Air flow system. ( )
  - i. The air inlet to the blower and the tower discharge vent ~~shall~~ must be down-turned and protected with a non-corrodible twenty-four (24) mesh screen to prevent contamination from extraneous matter. (3-24-22)( )
  - ii. The air inlet ~~shall~~ must be in a protected location. (3-24-22)( )
  - iii. An air flow meter ~~shall~~ must be provided on the influent air line or an alternative method to determine the air flow ~~shall~~ will be provided. (3-24-22)( )
  - iv. A positive air flow sensing device and a pressure gauge must be installed on the air influent line. The positive air flow sensing device must be a part of an automatic control system which will turn off the influent water if positive air flow is not detected. The pressure gauge will serve as an indicator of fouling buildup. ( )
  - v. A backup motor for the air blower must be readily available. ( )
  - e. Other features that ~~shall~~ must be provided: (3-24-22)( )
    - i. A sufficient number of access ports with a minimum diameter of twenty-four (24) inches to facilitate inspection, media replacement, media cleaning and maintenance of the interior. ( )
    - ii. A method of cleaning the packing material when iron, manganese, or calcium carbonate fouling may occur. ( )
    - iii. Tower effluent collection and pumping wells constructed to clearwell standards. ( )
    - iv. Provisions for extending the tower height without major reconstruction. ( )
    - v. No bypass ~~shall~~ may be provided unless specifically approved by the Department. (3-24-22)( )
    - vi. Disinfection and adequate contact time after the water has passed through the tower and prior to the distribution system. ( )
    - vii. Adequate packing support to allow free flow of water and to prevent deformation with deep packing heights. ( )
    - viii. Operation of the blower and disinfectant feeder equipment during power failures. ( )
    - ix. Adequate foundation to support the tower and lateral support to prevent overturning due to wind loading. ( )
    - x. Fencing and locking gate to prevent vandalism. ( )
    - xi. An access ladder with safety cage for inspection of the aerator including the exhaust port and demister. ( )
    - xii. Electrical interconnection between blower, disinfectant feeder and supply pump. ( )

**06. Other Methods of Aeration.** Other methods of aeration may be used if applicable to the treatment needs. Such methods include but are not restricted to spraying, diffused air, cascades and mechanical aeration. The

treatment processes are subject to the approval of the Department. ( )

**07. Protection of Aerators.** All aerators except those discharging to lime softening or clarification plants ~~shall~~ **must** be protected from contamination by birds, insects, wind borne debris, rainfall and water draining off the exterior of the aerator. (3-24-22)( )

**08. Disinfection.** Ground ~~water~~ supplies exposed to the atmosphere by aeration must receive disinfection as described in Section 530 as the minimum additional treatment. (3-24-22)( )

**535. ~~FACILITY AND DESIGN STANDARDS:~~ DESIGN STANDARDS FOR IRON AND MANGANESE CONTROL SYSTEMS.**

Iron and manganese control, as used herein, refers solely to treatment processes designed specifically for this purpose. The treatment process used will depend upon the character of the raw water. The selection of one (1) or more treatment processes must meet specific local conditions as determined by engineering investigations, including chemical analyses of representative samples of water to be treated, and receive the approval of the Department. The Department may require a pilot plant study in order to gather all information pertinent to the design. ~~See in accordance with~~ Subsection 501.19 ~~for general information on conducting pilot studies.~~ (3-24-22)( )

**01. Removal by Oxidation, Detention and Filtration.** ( )

**a.** Oxidation may be by aeration or by chemical oxidation with chlorine, potassium permanganate, ozone or chlorine dioxide. ( )

**b.** Detention time: ( )

**i.** A minimum detention time of thirty (30) minutes ~~shall~~ **must** be provided following aeration to ensure that the oxidation reactions are as complete as possible. This minimum detention may be omitted only where a pilot plant study indicates no need for detention. The detention basin may be designed as a holding tank without provisions for sludge collection but with sufficient baffling to prevent short circuiting. (3-24-22)( )

**ii.** Sedimentation basins ~~shall~~ **must** be provided when treating water with high iron or manganese content, or where chemical coagulation is used to reduce the load on the filters. Provisions for sludge removal ~~shall~~ **must** be made. (3-24-22)( )

**c. Filtration.** Rapid rate pressure filters are normally used for iron and manganese removal. Pressure filters ~~shall~~ **may** not be used in the filtration of surface or other polluted waters or following lime-soda softening. (3-24-22)( )

**i.** The rate of filtration ~~shall~~ **may** not exceed three (3) gallons per minute per square foot of filter area except where in-plant testing as approved by the Department has demonstrated satisfactory results at higher rates. (3-24-22)( )

**ii.** The filters ~~shall~~ **must** be designed to provide for: (3-24-22)( )

(1) Loss of head gauges on the inlet and outlet pipes of each battery of filters. ( )

(2) An easily readable meter or flow indicator on each battery of filters. ( )

(3) Filtration and backwashing of each filter individually with an arrangement of piping as simple as possible to accomplish these purposes. ( )

(4) Minimum side wall shell height of five (5) feet. A corresponding reduction in side wall height is acceptable where proprietary bottoms permit reduction of the gravel depth. ( )

(5) The top of the wash water collectors to be at least eighteen (18) inches above the surface of the media, ( )

(6) The underdrain system to efficiently collect the filtered water and to uniformly distribute the backwash water at a rate not less than fifteen (15) gallons per minute per square foot of filter area. ( )

(7) Backwash flow indicators and controls that are easily readable while operating the control valves. ( )

(8) An air release valve on the highest point of each filter. ( )

(9) An accessible manhole to facilitate inspection and repairs for filters thirty-six (36) inches or more in diameter. Sufficient handholds ~~shall~~ will be provided for filters less than thirty-six (36) inches in diameter. (3-24-22)( )

(10) A means to observe the wastewater during backwashing and construction to prevent cross connection. ( )

**02. Removal by Manganese Coated Media Filtration.** This process consists of a continuous or batch feed of potassium permanganate to the influent of a manganese coated media filter. ( )

a. Other oxidizing agents or processes such as chlorination or aeration may be used prior to the permanganate feed to reduce the cost of the chemical. ( )

b. An anthracite media cap of at least six (6) inches or more as required by the Department ~~shall~~ must be provided over manganese coated media. (3-24-22)( )

c. Normal filtration rate ~~shall~~ must be three (3) gallons per minute per square foot. (3-24-22)( )

d. Normal wash rate ~~shall~~ will be eight (8) to ten (10) gallons per minute per square foot with manganese greensand and fifteen (15) to twenty (20) gallons per minute with manganese coated media. (3-24-22)( )

e. Sample taps ~~shall~~ must be provided prior to application of permanganate, immediately ahead of filtration, at points between the anthracite media, and at the filter effluent. The sample taps ~~shall~~ must satisfy the requirements of Subsection 501.09. (3-24-22)( )

**03. Removal by Ion Exchange.** This process is not acceptable where either the raw water or wash water contains dissolved oxygen or other oxidants. ( )

**04. Biological Removal.** Biofiltration to remove manganese, iron, or a combination of manganese and iron requires on-site piloting testing to establish effectiveness. The final filter design ~~shall~~ must be based on the on-site pilot plant studies. (3-24-22)( )

**05. Sequestration by Polyphosphates.** This process ~~shall~~ may not be used when iron, manganese or a combination thereof exceeds one point zero (1.0) mg/l. The total phosphate applied ~~shall~~ must not exceed ten (10) mg/l as PO<sub>4</sub>. Where phosphate treatment is used, satisfactory chlorine residuals ~~shall~~ must be maintained in the distribution system. Possible adverse effects on corrosion must be addressed when phosphate addition is proposed for iron sequestering. (3-24-22)( )

a. Stock phosphate solution must be kept covered and disinfected by carrying approximately ten (10) mg/l free chlorine residual unless it is demonstrated to the satisfaction of the Department that the phosphate solution is not able to support bacterial growth and the phosphate solution is being fed from the covered shipping container or an approved disinfected tank. Phosphate solutions having a pH of two point zero (2.0) or less may also be exempted from this requirement by the Department. ( )

b. Polyphosphates ~~shall~~ may not be applied ahead of iron and manganese removal treatment. The point of application ~~shall~~ must be prior to any aeration, oxidation or disinfection if no iron or manganese removal treatment is provided. (3-24-22)( )

**06. Sequestration by Sodium Silicates.** Sodium silicate sequestration of iron and manganese is allowed only for ground-water supplies prior to air contact. On-site pilot studies are required to determine the suitability of sodium silicate for the particular water and the minimum feed needed. Rapid oxidation of the metal ions such as by chlorine or chlorine dioxide must accompany or closely precede the sodium silicate addition.

(3-24-22)( )

a. Sodium silicate addition is applicable to waters containing up to two (2) mg/l of iron, manganese or combination thereof. ( )

b. Chlorine residuals ~~shall~~ must be maintained throughout the distribution system to prevent biological breakdown of the sequestered iron. (3-24-22)( )

c. The amount of silicate added ~~shall~~ must be limited to twenty (20) mg/l as SiO<sub>2</sub>, but the amount of added and naturally occurring silicate ~~shall~~ may not exceed sixty (60) mg/l as SiO<sub>2</sub>. (3-24-22)( )

d. Sodium silicate ~~shall~~ must not be applied ahead of iron or manganese removal treatment. (3-24-22)( )

**07. Sampling Taps.** Smooth-nosed sampling taps ~~shall~~ must be provided for control purposes. Taps ~~shall~~ will be located on each raw water source, each treatment unit influent and each treatment unit effluent. The sample taps ~~shall~~ must satisfy the requirements of Subsection 501.09. (3-24-22)( )

**536. ~~FACILITY AND DESIGN STANDARDS:~~ DESIGN STANDARDS FOR FLUORIDATION.**

**01. Chemical Feed Equipment and Methods.** In addition to the requirements in Section 531, fluoride feed equipment ~~shall~~ must meet the following requirements: (3-24-22)( )

a. Scales, loss-of-weight recorders or liquid level indicators, as appropriate, accurate to within five (5) percent of the average daily change in reading ~~shall~~ will be provided for chemical feeds. (3-24-22)( )

b. The accuracy of chemical feeders used for fluoridation ~~shall~~ will be plus or minus five (5) percent of the intended dose. (3-24-22)( )

c. Unsealed storage units for fluorosilicic acid ~~shall~~ will be vented to the atmosphere at a point outside any building. (3-24-22)( )

d. Fluoride compound ~~shall~~ may not be added before lime-soda softening or ion exchange softening. (3-24-22)( )

e. The point of application of fluorosilicic acid, if into a horizontal pipe, ~~shall~~ will be in the lower half of the pipe. (3-24-22)( )

f. A fluoride solution ~~shall~~ will be applied by a positive displacement pump having a stroke rate not less than twenty (20) strokes per minute, and at a feed rate not less than twenty (20) percent of the rated capacity of the feed pump. (3-24-22)( )

g. A spring opposed diaphragm type anti-siphon device ~~shall~~ will be provided for all fluoride feed lines and dilution water lines. (3-24-22)( )

h. Except for constant flow systems, a device to measure the flow of water to be treated is required. ( )

i. The dilution water pipe ~~shall~~ will terminate at least two (2) pipe diameters above the solution tank. (3-24-22)( )

j. Water used for sodium fluoride dissolution ~~shall~~ will be softened if hardness exceeds seventy-five (75) mg/l as calcium carbonate. (3-24-22)( )

- k. Fluoride solutions ~~shall~~ will be injected at a point of continuous positive pressure or a suitable air gap provided. (3-24-22)( )
  - l. The electrical outlet used for the fluoride feed pump ~~shall~~ will be interconnected with the well or service pump. (3-24-22)( )
  - m. Consideration ~~shall~~ will be given to providing a separate room for fluorosilicic acid storage and feed. (3-24-22)( )
- 02. Secondary Controls.** Secondary control systems for fluoride chemical feed devices ~~shall~~ must be provided as a means of reducing the possibility for overfeed; these may include flow or pressure switches or other devices. (3-24-22)( )
- 03. Dust Control.** Provision must be made for the transfer of dry fluoride compounds from shipping containers to storage bins or hoppers in such a way as to minimize the quantity of fluoride dust which may enter the room in which the equipment is installed. The enclosure ~~shall~~ must be provided with an exhaust fan and dust filter which places the hopper under a negative pressure. Air exhausted from fluoride handling equipment ~~shall~~ must discharge through a dust filter to the outside atmosphere of the building. (3-24-22)( )

**537. ~~FACILITY AND DESIGN STANDARDS:~~ DESIGN STANDARDS FOR STABILIZATION.**

Water that is unstable due either to natural causes or to subsequent treatment ~~shall~~ must be stabilized. The expected treated water quality ~~shall~~ will be evaluated to determine what, if any, treatment is necessary. (3-24-22)( )

- 01. Carbon Dioxide Addition.** ( )
  - a. Recarbonation basin design ~~shall~~ must provide the following: (3-24-22)( )
    - i. A total detention time of twenty (20) minutes. ( )
    - ii. A mixing compartment having a detention time of at least three (3) minutes. ( )
    - iii. A reaction compartment. ( )
    - iv. The mixing and reaction compartments ~~shall~~ will have a depth sufficient to provide a diffuser submergence of not less than seven and one-half (7.5) feet and no greater than the manufacturer's recommendation. (3-24-22)( )
  - b. Where liquid carbon dioxide is used, adequate precautions must be taken to prevent carbon dioxide from entering the plant from the recarbonation process. ( )
  - c. Recarbonation tanks ~~shall~~ must be located outside or be sealed and vented to the outside with adequate seals and adequate purge flow of air to ensure workers safety. (3-24-22)( )
  - d. Provisions ~~shall~~ must be made for draining the recarbonation basin and removing sludge. (3-24-22)( )
- 02. Phosphates.** The feeding of phosphates may be used for sequestering calcium, for corrosion control, and in conjunction with alkali feed following ion exchange softening. ( )
  - a. Stock phosphate solution must be kept covered and disinfected by carrying approximately ten (10) mg/l free chlorine residual unless the phosphate is not able to support bacterial growth and the phosphate is being fed from the covered shipping container. Phosphate solutions having a pH of two point zero (2.0) or less are exempted from this requirement. ( )
  - b. Satisfactory chlorine residuals ~~shall~~ must be maintained in the distribution system when phosphates are used. (3-24-22)( )

03. **Split Treatment.** Raw water may be blended with lime-softened water to partially stabilize the water prior to secondary clarification and filtration. Treatment plants designed to utilize split treatment ~~shall~~ must also contain facilities for further stabilization by other methods. (3-24-22)( )

04. **Water Unstable Due to Biochemical Action in Distribution System.** Unstable water resulting from the bacterial decomposition of organic matter in water (especially in dead end mains), the biochemical action within tubercles, and the reduction of sulfates to sulfides ~~shall~~ must be prevented by the maintenance of a free or combined chlorine residual throughout the distribution system. (3-24-22)( )

538. – 539. (RESERVED)

540. ~~FACILITY AND DESIGN STANDARDS: DESIGN STANDARDS FOR TREATMENT AND DISPOSAL OF TREATMENT PLANT WASTE RESIDUALS.~~

~~Provisions must be made for~~ PWS owners must provide proper disposal of water treatment plant waste such as sanitary, laboratory, clarification sludge, softening sludge, iron sludge, filter backwash water, and liquid concentrates. In locating waste disposal facilities, due consideration ~~shall~~ must be given to preventing potential contamination of the water supply. (3-24-22)( )

01. **Sanitary Waste.** The sanitary waste from water treatment plants, pumping stations, and other waterworks installations must receive treatment. Waste from these facilities ~~shall~~ must be discharged directly to a sanitary sewer system, when available and feasible, or to an adequate on-site waste treatment facility approved under the provisions of IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules." (3-24-22)( )

02. **Liquid Concentrates.** ( )

a. Waste from ion exchange plants, demineralization plants, reverse osmosis, on-site chlorine generators, red water filters, or other plants which produce liquid concentrates may be disposed of by the following methods: (3-24-22)( )

i. Liquid concentrates that contain radionuclides must be further treated to remove the radioactive constituents as sludge. See Subsection 540.03.e. for disposal requirements for sludge that contains radionuclides. The residual liquids from which radionuclides have been removed may be disposed of in accordance with Subsections 540.02.a.ii. through 540.02.a.iv. ( )

ii. ~~Controlled discharge to a stream or other receiving water body if adequate dilution is available. Such discharge will require a National Pollution Elimination System Permit from the U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, WA 98101, Telephone (206) 553-1200. a surface water discharge permit has been issued by the applicable permitting authority and limits and conditions of discharge permit can be reasonably met.~~ (3-24-22)( )

iii. Liquid concentrates may be discharged to a sanitary sewer, if available and feasible. Acceptance of such waste must be approved by the sewer authority. ( )

iv. ~~Subsurface disposal, or land application of, or total containment lagoons may be considered for liquid concentrate when in compliance with IDAPA 58.01.16, "Wastewater Rules." Untreated liquid concentrates may not be permitted, but only if such discharge meets the requirements of for subsurface or land application unless otherwise approved by the Department and in accordance with IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules" for subsurface disposal or the requirements of IDAPA 58.01.17, "Recycled Water Rules" for land application.~~ (3-24-22)( )

b. ~~Should~~ If the nature of the liquid concentrate causes it to be ineligible for permitted discharge as described in Subsection 540.02.a., further onsite treatment of the liquid concentrate may be required in order to produce sludge and liquid waste that will meet the permit criteria for one (1) or more of the disposal options. (3-24-22)( )

c. If sand filters are used to treat the waste filter wash water, red water, from iron and manganese

~~removal plants, they must have the following features: ( )~~

~~i. Total filter area sufficient to adequately dewater applied solids. Unless the filter is small enough to be cleaned and returned to service in one (1) day, two (2) or more cells are required. ( )~~

~~ii. Sufficient capacity to contain, above the level of the sand, the entire volume of wash water produced by washing all of the production filters in the plant, unless the production filters are washed on a rotating schedule and the flow through the production filters is regulated by true rate of flow controllers. Sufficient volume will be provided to dispose of the wash water involved. ( )~~

~~iii. Provisions for covering the filters during winter months where freezing is a problem. ( )~~

**03. Sludge Waste.** Sludge is the solid waste resulting from coagulation, precipitation, or passive settling of liquid concentrates. Depending on composition, liquids remaining after sludge removal may be disposed of by methods described in Subsection 540.02, recycled through the treatment plant, or may be pure enough to be unregulated. The following methods of treatment and disposal apply to sludge: ( )

**a. Precipitative Softening Sludge. ( )**

~~i. At least two (2) temporary storage lagoons must be provided in order to give flexibility in operation. Provisions must be made for convenient cleaning. An acceptable means of final sludge disposal must be provided. ( )~~

~~ii. Liquid or dewatered precipitative softening sludge may be applied to farm land if heavy metals or other contaminants do not exceed the requirements of IDAPA 58.01.02, "Water Quality Standards." ( )~~

~~iii. Dewatered precipitative softening sludge may be disposed of in a sanitary landfill in accordance with the requirements of IDAPA 58.01.06, "Solid Waste Management Rules." Acceptance of such waste is at the discretion of the landfill authority. ( )~~

**b. Alum or Ferric Sludge. ( )**

~~i. Temporary storage lagoons must contain at least two (2) compartments to facilitate independent filling and dewatering operations. Mechanical concentration may be considered. If mechanical dewatering is used, it shall must be preceded by sludge concentration and chemical pre-treatment. A pilot plant study is required before the design of a mechanical dewatering installation. See in accordance with Subsection 501.19 for general information on conducting pilot studies. (3-24-22)( )~~

~~ii. Alum or ferric sludge may be discharged to a sanitary sewer if available and feasible. Acceptance of such waste must be approved by the sewer authority. ( )~~

~~iii. Dewatered alum or ferric sludge may be disposed of in a sanitary landfill in accordance with the requirements of IDAPA 58.01.06, "Solid Waste Management Rules." Acceptance of such waste is at the discretion of the landfill authority. ( )~~

~~iv. Alum or ferric sludge may be disposed of by land application if the permitting requirements of IDAPA 58.01.02, "Water Quality Standards," and IDAPA 58.01.17, "Recycled Water Rules," are met. ( )~~

~~v. Water removed from alum or ferric sludge may be disposed of in the same manner as liquid concentrates, as described in Subsection 540.02. ( )~~

~~e. Red Water. Red water is the waste filter wash water from iron and manganese removal plants. (3-24-22)~~

~~i. If sand filters are used they shall have the following features: (3-24-22)~~

~~(+) Total filter area shall be sufficient to adequately dewater applied solids. Unless the filter is small~~



~~enough to be cleaned and returned to service in one (1) day, two (2) or more cells are required.~~ (3-24-22)

~~(2) The “red water” filter shall have sufficient capacity to contain, above the level of the sand, the entire volume of wash water produced by washing all of the production filters in the plant, unless the production filters are washed on a rotating schedule and the flow through the production filters is regulated by true rate of flow controllers. Then sufficient volume shall be provided to properly dispose of the wash water involved.~~ (3-24-22)

~~(3) Where freezing is a problem, provisions should be made for covering the filters during the winter months.~~ (3-24-22)

~~(4) “Red water” filters shall not have common walls with finished water.~~ (3-24-22)

~~ii. Subsurface infiltration lagoons may be permitted, but only if such discharge meets the requirements of IDAPA 58.01.03, “Individual/Subsurface Sewage Disposal Rules.”~~ (3-24-22)

~~iii. “Red water” may be discharged to a sanitary sewer if available and feasible. Acceptance of such waste must be approved by the sewer authority. Design shall prevent cross connections and there shall be no common walls between potable and non-potable fluid.~~ (3-24-22)

~~dc. Filter Backwash Water Sludge.~~ (3-24-22)( )

i. Recycling is permitted if the backwash waters are returned to the head of the treatment plant or another entry point if supported by engineering studies. Backwash water ~~shall~~ will be held for a sufficient time prior to recycling to allow solids to settle out. (3-24-22)( )

ii. Dewatered sludge from backwash water clarification processes may be disposed of in a sanitary landfill in accordance with the requirements of IDAPA 58.01.06, “Solid Waste Management Rules.” Acceptance of such waste must be approved by the landfill authority. ( )

~~ed. Radioactive Sludge.~~ Waste residuals containing radioactive substances, including, but not limited to granular activated carbon used for radon removal or ion-exchange regeneration waste from uranium removal, must be disposed of in accordance with IDAPA 58.01.10, “Rules Regulating the Disposal of Radioactive Materials Not Regulated Under The Atomic Energy Act of 1954, As Amended.” (3-24-22)( )

i. The buildup of radioactive materials such as uranium or radon and its decay products ~~shall~~ must be considered and adequate shielding and safeguards shall be provided for operators and visitors. (3-24-22)( )

ii. Waste residuals containing naturally occurring radioactive materials that have been concentrated by human activities must be disposed of in an approved hazardous waste landfill (Class D), in accordance with the IDAPA 58.01.10, “Rules Regulating the Disposal of Radioactive Materials not Regulated Under the Atomic Energy Act of 1954, as Amended,” and IDAPA 58.01.06, “Solid Waste Management Rules.” ( )

iii. Waste residuals containing greater than point zero five (.05) percent by weight of uranium are subject to licensing and disposal under the regulations of the U.S. Nuclear Regulatory Commission, Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, TX 76011, Phone 817-860-8299. ( )

~~fe. Arsenic Sludge.~~ Solid waste residuals containing arsenic at a concentration less than five (5) mg/l may be disposed of at a sanitary landfill if permitted under IDAPA 58.01.06, “Solid Waste Management Rules.” Solid waste containing arsenic at a concentration greater than five (5) mg/l must be disposed of at an approved hazardous waste landfill. Liquid wastes generated by arsenic treatment processes are subject to the handling and disposal requirements for liquid concentrates, as discussed under Subsection 540.02. (3-24-22)( )

**04. Spent Media.** Exhausted ion exchange media, adsorption media, disposable filters, and other components of treatment processes that contain concentrated contaminants ~~shall~~ must be disposed of in accordance with IDAPA 58.01.06, “Solid Waste Management Rules,” ~~and~~ or IDAPA 58.01.10, “Rules Regulating the Disposal of Radioactive Materials not Regulated Under the Atomic Energy Act of 1954, as Amended.” (3-24-22)( )

541. ~~FACILITY AND DESIGN STANDARDS-~~ PUMPING FACILITIES.

Pumping facilities ~~shall~~ must be designed to maintain the sanitary quality of pumped water. (3-24-22)(    )

01. **Pump Houses.** Unless otherwise approved by the Department ~~based on documentation provided by the design engineer~~, pump house components ~~shall~~ must be located above-grade. The following requirements apply to pump houses as defined in Section 003 unless it can be shown that some or all of these requirements are not needed to protect the combination of system components in a given structure: (3-24-22)(    )

a. Pump houses ~~shall~~ must be readily accessible for operation, maintenance, and repair at all times and under all weather conditions unless permitted to be out of service for a period of inaccessibility. (3-24-22)(    )

b. Pump houses ~~shall~~ must be protected from flooding and ~~shall~~ must be adequately drained. The ground surface ~~shall~~ will be graded so as to lead surface drainage away from the pump house. Unless otherwise approved by the Department ~~based on documentation provided by the design engineer~~, the floor surface ~~shall~~ will be at least six (6) inches above the final ground surface and pump house components ~~shall~~ will be located at least six (6) inches above the floor surface. (3-24-22)(    )

c. Pump houses ~~shall~~ must be of durable construction, fire and weather resistant, and with outward-opening doors. All underground structures ~~shall~~ must be waterproofed. (3-24-22)(    )

d. Provisions ~~shall~~ must be made for adequate heating for the comfort of the operator and the safe and efficient operation of the equipment. In pump houses not occupied by personnel, only enough heat need be provided to prevent freezing of equipment or treatment processes. (3-24-22)(    )

e. Ventilation ~~shall~~ must conform to existing local ~~and~~/or state codes. Adequate ventilation ~~shall~~ will be provided for all pumping stations for operator comfort and dissipation of excess heat and moisture from the equipment. In all cases, measures must be taken to minimize corrosion of metallic and electrical components. (3-24-22)(    )

f. Pump houses ~~shall~~ must be provided with a locking door or access to prohibit unauthorized entrance and ~~shall~~ must be protected to prevent vandalism and entrance by animals. Plans and specifications for pump houses must provide enough detail to enable the ~~reviewing engineer~~ Department to determine that the facility is secure, safe, accessible, and that it conforms to electrical and plumbing codes. (3-24-22)(    )

g. Pump houses ~~shall~~ must be kept clean and in good repair and ~~shall~~ may not be used to store toxic or hazardous materials other than those materials required for treatment processes. (3-24-22)(    )

h. A suitable outlet ~~shall~~ must be provided for drainage from pump glands without discharging onto the floor. (3-24-22)(    )

i. Floor drains ~~shall~~ may not be connected to sewers, storm drains, chlorination room drains, or any other source of contamination unless otherwise approved by the Department ~~based on documentation provided by the design engineer~~. Gas chlorination room drains ~~shall~~ may not be connected to any other drainage system and ~~should~~ must terminate in a properly located below ground sump. Sumps for pump house floor drains ~~shall~~ may not be closer than thirty (30) feet from any well. (3-24-22)(    )

j. Adequate space ~~shall~~ must be provided for the installation of potential additional units and for the safe and efficient servicing of all equipment. (3-24-22)(    )

k. Suction basins ~~shall~~ must be watertight, have floors sloped to permit removal of water and settled solids, be covered or otherwise protected against contamination, and have two (2) pumping compartments or other means to allow the suction basin to be taken out of service for inspection maintenance or repair. (3-24-22)(    )

l. Pump houses ~~shall~~ must be designed to allow efficient equipment servicing. Crain-ways, hoist beams, eyebolts, or other adequate facilities for servicing or removal of pumps, motors or other heavy equipment ~~shall~~ will be provided. Openings in floors, roofs or wherever else ~~shall~~ must be provided as needed for removal of

heavy or bulky equipment. (3-24-22)( )

m. All remote controlled stations ~~shall~~ must be electrically operated and controlled and ~~shall~~ have signaling apparatus of proven performance. Signaling apparatus ~~shall~~ must report automatically when the station is out of service. (3-24-22)( )

n. Any threaded hose bib installed in the pump house must be equipped with an appropriate backflow prevention device. ( )

**02. Pumping Units.** At least two (2) pumping units ~~shall~~ must be provided for raw water and surface source pumps. Pumps using seals containing mercury ~~shall~~ may not be used in ~~public drinking water system~~ PWS facilities. With any pump out of service, the remaining pump or pumps ~~shall~~ must be capable of providing the peak hour demand of the ~~system~~ PWS or a minimum of the maximum day demand plus equalization storage. See Subsection 501.18 for general design requirements concerning fire flow capacity and Subsection 501.07 regarding reliability and emergency operation. The pumping units ~~shall~~ must meet the following requirements: (3-24-22)( )

a. The pumps ~~shall~~ have ample capacity to supply the maximum demand against the required pressure without dangerous overloading. (3-24-22)( )

b. The pumps ~~shall be~~ are driven by prime movers able to meet the maximum horsepower condition of the pumps. (3-24-22)( )

c. The pumps ~~shall be~~ are provided with readily available spare parts and tools. (3-24-22)( )

d. The pumps ~~shall~~ are to be served by control equipment that has proper heater and overload protection for air temperature encountered. (3-24-22)( )

e. Suction lift ~~shall be~~ is avoided if possible. When suction lift is used, it ~~shall~~ must be within the limits allowed by the manufacturer of the pumps, and provision ~~shall~~ will be made for priming the pumps. (3-24-22)( )

f. Prime water must not be of lesser sanitary quality than that of the water being pumped. Means ~~shall~~ will be provided to prevent either backpressure or backsiphonage backflow. When an air-operated ejector is used, the twenty-four (24) mesh or similar non-corrodible screened intake ~~shall~~ will draw clean air from a point at least ten (10) feet above the ground or other source of possible contamination, unless the air is filtered by an apparatus approved by the ~~reviewing authority~~ Department. Vacuum priming may be used. (3-24-22)( )

**03. Appurtenances.** The following appurtenances ~~shall~~ must be provided for all water pumps. Additional requirements specific to well pumps are provided in Section 511. (3-24-22)( )

a. Pumps ~~shall~~ must be protected against freezing and valved to permit satisfactory operation, maintenance, and repair of the equipment. If foot valves are necessary, they ~~shall~~ must have a net valve area of at least two and one-half (2.5) times the area of the suction pipe and ~~they shall~~ be screened. Each pump ~~shall~~ must have an accessible check valve on the discharge side between the pump and the shut-off valve or a combination valve that performs both control valve and check valve functions. Surge relief measures ~~shall~~ must be designed to minimize hydraulic transients. (3-24-22)( )

b. ~~In general, piping shall be designed so that it will have watertight joints, be protected against surge or water hammer, be provided with suitable restraints where necessary, be designed so that friction losses will be minimized, and not be subject to contamination. Piping must be designed with watertight joints, friction losses minimized, protection against surge or water hammer, suitable restraints, and not be subject to contamination.~~ (3-24-22)( )

c. Each pump ~~shall~~ must have an individual suction line or ~~the~~ manifolded suction lines ~~shall be~~ manifolded such that they will ensure similar hydraulic and operating conditions. (3-24-22)( )

- ed.** Each pump station ~~shall~~ **must** have a standard pressure gauge on its discharge line and suction line. (3-24-22)( )
- de.** Water seals ~~shall~~ **may** not be supplied with water of a lesser sanitary quality than that of the water being pumped. Where pumps are sealed with potable water and are pumping water of lesser sanitary quality, the seal ~~shall~~ **must**: (3-24-22)( )
- i. Be provided with either an approved reduced pressure principle backflow preventer or a break tank open to atmospheric pressure, ( )
  - ii. Where a break tank is provided, have an air gap of at least six (6) inches or two (2) pipe diameters, whichever is greater, between the feeder line and the flood rim of the tank. ( )
- ef.** Pumps, their prime movers, and accessories ~~shall~~ **must** be controlled in such a manner that they will operate at rated capacity without dangerous overload. Where two (2) or more pumps are installed, provision ~~shall~~ **must** be made for alternation. Provision ~~shall~~ **must** be made to prevent energizing the motor in the event of a backspin cycle. Equipment ~~shall~~ **will** be provided or other arrangements made to prevent surge pressures from activating controls which switch on pumps or activate other equipment outside the normal design cycle of operation. (3-24-22)( )

**04. Booster Pumps.** In addition to other applicable requirements in Section 541, booster pumps must comply with the following: ( )

- a. In-line booster pumps ~~shall~~ **must** maintain an operating pressure that is consistent with the requirements specified in Subsection 552.01, and ~~shall~~ be supplied with an automatic cutoff when intake pressure is less than or equal to five (5) psi. (3-24-22)( )
- b. Booster pumps with a suction line directly connected to any storage reservoirs ~~shall~~ **must** be protected by an automatic cutoff to prevent pump damage and avoid excessive reservoir drawdown. (3-24-22)( )
- c. Each booster pumping station ~~shall~~ **must** contain not less than two (2) pumps with capacities such that peak hour demand, or a minimum of the maximum day demand plus equalization storage, can be satisfied with any pump out of service. See Subsection 501.18 for general design requirements concerning fire flow capacity. (3-24-22)( )

**542. FACILITY AND DESIGN STANDARDS—DISTRIBUTION SYSTEM.**

**01. Protection from Contamination.** The distribution system ~~shall~~ **must** be protected from contamination and be designed to prevent contamination by steam condensate or cooling water from engine jackets or other heat exchange devices. (3-24-22)( )

**02. Installation of Water Mains.** Division 400 of “Idaho Standards for Public Works Construction,” referenced in Subsection 002.02, may be used as guidance for installation of water mains. In addition, the following provisions ~~shall~~ apply: (3-24-22)( )

- a. Installed pipe ~~shall~~ **must** be pressure tested and leakage tested in accordance with the applicable AWWA Standards, incorporated by reference into these rules at Subsection 002.01. (3-24-22)( )
- b. New, cleaned, and repaired water mains ~~shall~~ **must** be disinfected in accordance with AWWA Standard C651, incorporated by reference into these rules at Subsection 002.01. The specifications ~~shall~~ **must** include detailed procedures for the adequate flushing, disinfection, and microbiological testing of all water mains. (3-24-22)( )
- c. In areas where aggressive soil conditions are suspected or known to exist, analyses ~~shall~~ **must** be performed to determine the actual aggressiveness of the soil. If soils are found to be aggressive, action ~~shall~~ **must** be taken to protect metallic joint restraints and the water main, such as encasement in polyethylene, provision of

cathodic protection, or use of corrosion resistant materials. (3-24-22)( )

d. The Department must approve any interconnection between potable water ~~supplies~~ sources, taking into account differences in water quality between the two systems. (3-24-22)( )

e. A continuous and uniform bedding ~~shall~~ must be provided in the trench for all buried pipe. Backfill material ~~shall~~ must be tamped in layers around the pipe and to a sufficient height above the pipe to adequately support and protect the pipe. Stones found in the trench ~~shall~~ must be removed for a depth of at least six (6) inches below the bottom of the pipe. (3-24-22)( )

f. Water mains ~~shall~~ must be covered with sufficient earth or other insulation to prevent freezing. (3-24-22)( )

g. All tees, bends, plugs and hydrants ~~shall~~ must be provided with reaction blocking, tie rods or joints designed to prevent movement. (3-24-22)( )

**03. Pressure Relief Valves.** All pumps connected directly to the distribution system ~~shall~~ must be designed in conjunction with a water pressure relief valve of type, size, and material approved by the Department unless the Department approves another method that will prevent excessive pressure development. (3-24-22)( )

**04. Flow Meter Required.** Unless otherwise approved by the Department ~~based on documentation provided by the design engineer~~, all source pumps and booster pumps connected directly to the distribution system ~~shall~~ must have an instantaneous and totalizing flow meter, equipped with nonvolatile memory, installed in accordance with manufacturer's specifications. (3-24-22)( )

**05. Pipe and Jointing Materials.** Pipe and jointing materials comply with the standards set forth in Subsection 501.01. Pipe ~~shall~~ must be manufactured of materials resistant internally and externally to corrosion and not imparting tastes, odors, color, or any contaminant into the ~~system~~ PWS. Where distribution systems are installed in areas of ground-water contaminated by organic compounds: (3-24-22)( )

a. Pipe and joint materials which do not allow permeation of the organic compounds ~~shall~~ must be used; and (3-24-22)( )

b. Non-permeable materials ~~shall~~ must be used for all portions of the ~~system~~ PWS including pipe, joint materials, hydrant leads, and service connections. (3-24-22)( )

**06. Size of Water Mains.** When fire hydrants are provided, they ~~shall~~ may not be connected to water mains smaller than six (6) inches in diameter, and fire hydrants ~~shall~~ may not be installed unless fire flow volumes are available. If fire flow is not provided, water mains ~~shall~~ will be no less than three (3) inches in diameter. Any departure from ~~this~~ these minimum standards ~~shall~~ must be supported by hydraulic analysis and detailed projections of water use. (3-24-22)( )

**07. Separation of Potable, Non-Potable, and Raw Water Pipelines.** The requirements for the protection of potable ~~mains~~ pipelines from contamination by non-potable pipelines are described in Subsections 542.07.a. through 542.07.ed. For the purposes of Subsection 542.07, the term "pipeline" applies to both mains and services. The Department will use the Memorandum of Understanding with the Plumbing Bureau as guidance in determining the relative responsibilities for reviewing service lines. The conditions of Subsections 542.07.a. ~~and through~~ 542.07.bd. ~~shall~~ apply to all potable services constructed or reconstructed after April 15, 2007 and where the Department or the QLPE is the reviewing authority. Raw water pipelines must be protected from contamination from non-potable pipelines, and must not contaminate potable pipelines. They ~~shall therefore~~ must meet equivalent separation distances shown below from either potable or non-potable pipelines. (3-24-22)( )

a. Alternative separation distances may be considered for Subsections 542.07.b through 542.07.c. on a case-by-case basis when considering constructability, public health risk, environmental risk, and cost. The design engineer must submit data to the Department for review and approval showing that the proposed installation will be protective of public health and the environment. ( )

- ~~a.b.~~ Parallel installation requirements. ( )
- i. Potable mains in relation to non-potable mains. ( )
- (1) Greater than ten (10) feet separation: no additional requirements. ( )
- (2) Ten (10) feet to six (6) feet separation: separate trenches, with the bottom of the potable main above the top of the non-potable main, and non-potable main constructed with potable water class pipe. ( )
- ~~(3) Less than six (6) feet separation: design engineer to submit data to the Department for review and approval showing that this installation will protect public health and the environment, non potable main to be constructed of potable water class pipe, and with the bottom of the potable main above the top of the non-potable main. (3-24-22)~~
- ~~(4)~~ Non-potable mains are prohibited from being located in the same trench as potable mains. ( )
- ~~(5) Pressure wastewater mains or other pressurized mains or lines containing non-potable fluids shall be no closer horizontally than ten (10) feet from potable mains. (3-24-22)~~
- ii. ~~New p~~Potable services in relation to non-potable ~~services, new potable services in relation to non-potable mains, pipelines~~ and ~~new~~ non-potable services in relation to potable ~~mains pipelines~~. (3-24-22)( )
- (1) Greater than six (6) feet separation: no additional requirements ~~based on separation distance~~. (3-24-22)( )
- ~~(2) Less than six (6) feet separation: design engineer to submit data that this installation will protect public health and the environment and non-potable service constructed with potable water class pipe. (3-24-22)~~
- ~~(3)~~ ~~New p~~Potable services are prohibited from being located in the same trench as non-potable ~~mains or non-potable services pipelines~~. (3-24-22)( )
- ~~b.c.~~ Requirements for potable water ~~mains or services pipelines~~ crossing non-potable ~~water mains or services pipelines~~. Crossings must be perpendicular, unless otherwise approved by the Department. (3-24-22)( )
- i. If there is eighteen (18) inches or more vertical separation with the potable water pipeline above the non-potable pipeline, then the potable pipeline joints must be as far as possible from the non-potable water pipeline. ( )
- ii. If there is eighteen (18) inches or more vertical separation with the potable water pipeline below the non-potable pipeline, then the potable pipeline joints must be as far as possible from the non-potable pipeline, and the non-potable pipeline must be supported through the crossing to prevent settling. ( )
- iii. Less than eighteen (18) inches vertical separation: ( )
- (1) Potable pipeline joint ~~to~~ must be as far as possible from the non-potable pipeline; and either: (3-24-22)( )
- (a) Non-potable pipeline must be constructed with potable water class pipe for a minimum of ten (10) feet either side of potable pipeline with a single twenty (20) foot section of potable water class pipe centered on the crossing; or (3-24-22)( )
- (b) ~~Sleeve~~The non-potable or potable pipeline must be sleeved with potable water class pipe for ten (10) feet either side of crossing. Use of hydraulic cementitious materials such as concrete, controlled density fill, and concrete slurry encasement is not allowed as a substitute for sleeving. (3-24-22)( )
- (2) If potable pipeline is below non-potable pipeline, the non-potable pipeline must also be supported

through the crossing to prevent settling. ( )

~~iv. Pressure wastewater mains or other pressurized mains or lines containing non-potable fluids shall be no closer vertically than eighteen (18) inches from potable mains. (3-24-22)~~

~~e. Existing potable services in relation to new non-potable mains, existing non-potable services in relation to new potable mains, and existing potable services in relation to new non-potable services shall meet the requirements of Subsection 542.07.b., where practical, based on cost, construction factors, and public health significance. If the Department determines that there are significant health concerns with these services, such as where a large existing service serves an apartment building or a shopping center, then the design shall conform with Subsection 542.07.b. (3-24-22)~~

~~c. Non-potable pressure pipelines must not be: ( )~~

~~i. Closer horizontally than ten (10) feet from potable mains. ( )~~

~~ii. Closer vertically than eighteen (18) inches from potable pipelines. ( )~~

**08. Separation from Subsurface Wastewater Systems and Other Sources of Contamination.** A minimum horizontal distance of twenty-five (25) feet ~~shall~~ **must** be maintained between any potable water pipe and a septic tank or subsurface wastewater disposal system. Guidance on separation from other potential sources of contamination, such as stormwater facilities, may be found on the ~~DEQ~~ **Department** website <http://www.deq.idaho.gov>. (3-24-22)( )

**09. Dead End Mains.** All dead end water mains ~~shall~~ **must** be equipped with a means of flushing ~~and shall be flushed at least semiannually~~ at a water velocity of two and one-half (2.5) feet per second. (3-24-22)( )

a. Dead ends ~~shall~~ **must** be minimized by ~~making appropriate tie-ins~~ **looping** whenever practical in order to provide increased reliability of service and reduce head loss. (3-24-22)( )

b. Flushing ~~shall~~ **must** be ~~performed~~ **designed** in such a way as to minimize any erosion of unprotected areas and, if applicable, ~~shall~~ be coordinated with the owner of the receiving system. No water main flushing device ~~shall~~ **may** be directly connected to any sewer. (3-24-22)( )

c. Stub outs for future main connections ~~shall~~ **must** meet all requirements for dead end mains listed in Subsection 542.09 as determined by the Department. Flushing devices may be temporary in nature. (3-24-22)( )

**10. Repair of Leaks.** Leaking water mains ~~shall~~ **must** be repaired or replaced upon discovery and disinfected in accordance with American Water Works Association (AWWA) Standards, incorporated by reference into these rules at Subsection 002.01. (3-24-22)( )

**11. Separation from Structures.** Water mains ~~shall~~ **must** be separated by at least five (5) feet from buildings, industrial facilities, and other permanent structures. (3-24-22)( )

**12. Meter Vault Required.** All new ~~public water systems shall~~ **PWSs. and distribution systems undergoing material modification, must** include a meter vault at each service connection. A lockable shut-off valve ~~shall~~ **must** be installed in the meter vault. ~~This requirement shall also apply to extensions of the distribution system of existing public water systems.~~ (3-24-22)( )

**13. Minimum Pressure at Building Sites.** Any ~~public water system~~ **PWS** constructed or undergoing material modification where topographical relief may affect water pressure at the customers' premises ~~shall~~ **must** provide the Department with an analysis which demonstrates that the pressure at each designated building site will be at least forty (40) psi, based on dynamic pressure in the main, as set forth in Subsections 552.01.b.i. and 552.01.b.v., plus a static compensation from the elevation of the main to the elevation of each building site. (3-24-22)( )

a. If forty (40) psi cannot be provided at each designated building site, the Department may require that reasonable effort be made to provide notification to existing and potential customers of the expected pressure.

( )

b. The Department will not authorize a service connection at any designated building site where analysis indicates that pressure will be less than twenty (20) psi ~~static~~ dynamic pressure (or twenty-six point five (26.5) psi for two (2) story buildings). (3-24-22)( )

14. **Isolation Valves.** A sufficient number of valves ~~shall~~ must be provided on water mains to minimize inconvenience and sanitary hazards during repairs. (3-24-22)( )

15. **Air Valves.** At high points in water mains where air can accumulate, provisions ~~shall~~ must be made to remove the air by means of air release and vacuum relief valves or combination air release/vacuum relief valves. Air release valves, vacuum relief valves, or combination air release/vacuum relief valves may not be required if vacuum relief and air release functions in the pipeline can be adequately handled by approved appurtenances such as fire hydrants. (3-24-22)( )

a. The open end of an air valve ~~shall~~ must be extended to at least one (1) foot above grade and provided with a twenty-four (24) mesh or similar non-corrodible screened, downward-facing elbow. When the air vent on an air relief valve cannot be practically installed above ground, the vent may be below grade provided ~~that the valve is manually operated and~~ the air vent is extended to the top of the valve vault and provided with a twenty-four (24) mesh or similar non-corrodible screened, downward-facing elbow. In addition, for below ground vents, the valve vault must be rated for appropriate traffic loading in traffic areas and the vault drained to daylight or provided with adequate drainage to prevent flooding of the vault. (3-24-22)( )

b. Discharge piping from air valves or combination air release/vacuum relief valves ~~shall~~ may not connect directly to any storm drain, storm sewer, or sanitary sewer. (3-24-22)( )

16. **Backflow Protection.** Automatic air relief valves ~~shall~~ must be equipped with a means of backflow protection. (3-24-22)( )

17. **Surface Water Crossings.** For the purposes of Subsection 542.17, surface water is defined as all surface accumulations of water, natural or artificial, public or private, or parts thereof which are wholly or partially within, which flow through or border upon the state. This includes, but is not limited to, rivers, streams, canals, ditches, lakes, and ponds. Surface water crossings, whether over or under water, ~~shall~~ must be constructed as follows: (3-24-22)( )

a. ~~Above water crossings: the pipe shall~~ Pipe used in above water crossings must be adequately supported and anchored, protected from damage and freezing, and ~~shall~~ be accessible for repair or replacement. (3-24-22)( )

b. ~~Under water crossings: A~~ Pipe used in under water crossings must have a minimum cover of two (2) feet ~~shall be provided over the pipe~~. When crossing a water course that is greater than fifteen (15) feet in width, the following ~~shall~~ must be provided: (3-24-22)( )

i. The pipe ~~shall~~ will be of special construction, having flexible, restrained, or welded water-tight joints; and (3-24-22)( )

ii. Valves ~~shall~~ are to be provided at both ends of water crossings so that the section can be isolated for testing or repair; the valves ~~shall~~ will be easily accessible and not subject to flooding; and (3-24-22)( )

iii. Permanent taps or other provisions to allow insertion of a small meter to determine leakage and obtain water samples ~~shall~~ will be made on each side of the valve closest to the supply source. (3-24-22)( )

**543. ~~FACILITY AND DESIGN STANDARDS: CROSS CONNECTION CONTROL.~~**

There ~~shall~~ must be no connection between the distribution system and any pipes, pumps, hydrants, water loading stations, or tanks whereby unsafe water or other contaminating materials may be discharged or drawn into a PWS public water system. ~~The water purveyor is responsible through its cross connection control program to take reasonable and prudent measures to protect the water system against contamination and pollution from cross~~



~~connections through premises isolation or containment, internal or in-plant isolation, fixture protection, or some combination of premises isolation, internal isolation, and fixture protection.~~ Community PWS owners must meet the cross connection control program requirements in Subsection 552.06. (3-24-22)( )

**01. Testable Assemblies.** All double check valve backflow prevention assemblies, reduced pressure principle backflow prevention assemblies, spill resistant vacuum breakers, and pressure vacuum breakers used must pass a performance test conducted by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research (USC Foundation) and be included on the USC Foundation “List of Approved Assemblies.” ( )

**02. Atmospheric Vacuum Breakers.** All atmospheric vacuum breakers used ~~shall~~ must be marked approved either by the International Association of Plumbing and Mechanical Officials (IAPMO) or by the American Society of Sanitation Engineers (ASSE). (3-24-22)( )

**03. Replacement Parts and Components.** All replacement parts and components, including resilient seated shutoff valves, ~~shall~~ must meet original manufacturer’s specifications or otherwise be approved by the USC Foundation as replacement parts or components for use on double check valve backflow prevention assemblies, reduced pressure principle backflow prevention assemblies, pressure vacuum breakers, and spill resistant pressure vacuum breakers. The design, material, or operational characteristics of any assembly must not be altered during maintenance or repair. (3-24-22)( )

**04. Assembly Selection.** Appropriate and adequate backflow prevention assembly types for various facilities, fixtures, equipment, and uses of water ~~should~~ must be selected from the ~~AWWA Pacific Northwest Section Cross Connection Control Manual, the Uniform Plumbing Code, the~~ AWWA Recommended Practice for Backflow Prevention and Cross Connection Control (M14), the USC Foundation Manual of Cross Connection Control, or other sources deemed acceptable by the Department. The selected assembly manufacturer model number must be included on the USC Foundation “List of Approved Assemblies” and must comply with local ordinances. (3-24-22)( )

**544. ~~FACILITY AND DESIGN STANDARDS: GENERAL DESIGN OF FINISHED WATER STORAGE.~~** The materials and designs used for finished water storage structures ~~shall~~ must provide stability and durability as well as protect the quality of the stored water. Finished water storage structures ~~shall~~ must be designed to maintain water circulation and prevent water stagnation. Steel structures and facilities such as steel tanks, standpipes, reservoirs, and elevated tanks ~~shall~~ must be designed and constructed in accordance with applicable AWWA Standards, incorporated by reference into these rules at Subsection 002.01. Other materials of construction are acceptable when properly designed to meet the requirements of Section 544. (3-24-22)( )

**01. Sizing and Isolation Requirements.** ( )

**a.** Storage facilities ~~shall~~ must have sufficient capacity, as determined from engineering studies that consider peak flows, fire flow capacity, and analysis of the need for various components of finished storage as defined under the term “Components of Finished Water Storage” in Section 003. The requirement for storage may be reduced when the source and treatment facilities have sufficient capacity with standby power to supply peak demands of the ~~system~~ PWS. (3-24-22)( )

**b.** All storage structures which provide pressure directly to the distribution system, such as elevated storage structures or ground level storage structures with associated pumping systems, ~~shall~~ must be designed so they can be isolated and drained for cleaning or maintenance without causing a loss of pressure in the distribution system. (3-24-22)( )

**02. Location.** Storage facilities ~~shall~~ must be located in a manner that protects against contamination, ensures structural stability, protects against flooding, and provides year-round access by vehicles and equipment needed for repair and maintenance. (3-24-22)( )

**a.** If the bottom elevation of a storage reservoir must be below normal ground surface, it ~~shall~~ must be placed above the seasonal high ground-water table. The top of a partially buried storage structure may not be less than two (2) feet above normal ground surface. (3-24-22)( )

~~b. Non-potable mains and services, standing water, and similar sources of possible contamination must be kept at least fifty (50) feet from any partially buried or below ground storage structure or facility, except that non-potable mains and services constructed of potable water class pipe are allowed as close as twenty (20) feet from a partially buried or below ground storage structure or facility. Partially buried or below ground storage structures or facilities shall be located a minimum of fifty (50) feet from the nearest property line.~~ **Minimum separation distances from storage facilities must meet the following requirements:** (3-24-22)(    )

~~e. No public water supply storage tank shall be located within five hundred (500) feet of any municipal or industrial wastewater treatment plant or any land which is spray irrigated with wastewater or used for sludge disposal.~~ (3-24-22)

~~d. The top of a partially buried storage structure shall not be less than two (2) feet above normal ground surface.~~ (3-24-22)

~~e. Ground level or above ground storage structures or facilities shall be located a minimum of twenty (20) feet from the nearest property line and a minimum of twenty (20) feet from any potential source of contamination.~~

<b>Minimum Separation Distances From Storage Facilities (feet)</b>				
<b>Feature of Concern</b>	<b>Storage Facility Type</b>			
	<b>Below Ground</b>	<b>Partially Buried</b>	<b>Ground Level</b>	<b>Above Ground</b>
<u>Non-Potable Pipelines</u>	<u>50</u>	<u>50</u>		
<u>Non-Potable Pipelines Constructed of Water Class Pipe</u>	<u>20</u>	<u>20</u>		
<u>Standing Water</u>	<u>50</u>	<u>50</u>	<u>50</u>	
<u>Possible Sources of Contamination</u>	<u>50</u>	<u>50</u>	<u>20</u>	<u>20</u>
<u>Nearest Property Line</u>	<u>50</u>	<u>50</u>	<u>20</u>	<u>20</u>
<u>Municipal or Industrial Wastewater Treatment Plant</u>	<u>500</u>	<u>500</u>	<u>500</u>	<u>500</u>
<u>Land Which is Spray Irrigated With Wastewater or Used for Sludge Disposal</u>	<u>500</u>	<u>500</u>	<u>500</u>	<u>500</u>

(3-24-22)(    )

**03. Protection from Contamination.** All finished water storage structures ~~shall~~ **must** have suitable watertight roofs which exclude birds, animals, insects, and excessive dust. The installation of appurtenances, such as antennas, ~~shall~~ **must** be done in a manner that ensures no damage to the tank, coatings or water quality, or corrects any damage that occurred. (3-24-22)(    )

**04. Protection from Trespassers.** Fencing, locks on access manholes, and other necessary precautions ~~shall~~ **must** be provided to prevent trespassing, vandalism, and sabotage. (3-24-22)(    )

**05. Drains.** No drain on a water storage structure may have a direct connection to a sewer or storm drain. The design ~~shall~~ **must** allow draining the storage facility for cleaning or maintenance without causing loss of pressure in the distribution system. (3-24-22)(    )

06. **Overflow.** Overflow pipes of any storage structure or facility ~~shall~~ must discharge to daylight in a way that will preclude the possibility of backflow to the reservoir and, where practical, be provided with an expanded metal screen installed within the pipe that will exclude rodents and deter vandalism. The overflow pipe ~~shall~~ must be of sufficient diameter to permit waste of water in excess of the filling rate and be designed to mitigate blockage or freezing (see Subsection 544.11). The overflow ~~shall~~ must discharge over a drainage inlet structure or a splash plate and, when practical, discharge at an elevation between twelve (12) and twenty-four (24) inches above the receiving surface. (3-24-22)( )

a. When an internal overflow pipe is used on above-ground tanks, it ~~shall~~ must be located in the access tube. (3-24-22)( )

b. The overflow for ground-level, partially buried, or below-ground storage structures or facilities ~~shall~~ must have a vertical section of pipe at least two (2) pipe diameters in length and ~~either:~~ (3-24-22)

i. ~~B~~ be screened with a twenty-four (24) mesh non-corrodible screen installed within the pipe when practical or an expanded metal screen installed within the pipe plus a weighted flapper valve or check; ~~or~~ unless otherwise approved by the Department. (3-24-22)( )

ii. ~~Be an equivalent system acceptable to the Department.~~ (3-24-22)

07. **Access.** Finished water storage structures ~~shall~~ must be designed with reasonably convenient access to the interior for cleaning and maintenance. At least two (2) manholes ~~shall~~ will be provided above the waterline at each water compartment where space permits, as determined by the Department. One (1) manhole may be allowed on smaller tanks on a case-by-case basis. (3-24-22)( )

a. The following access requirements apply to above-ground and ground-level storage structures. Each access manhole ~~shall~~ must be framed a minimum of four (4) inches above the surface of the roof at the opening. The actual height above the surface of the roof must be sufficient to prevent incidental contamination from snow accumulation, storm water runoff or accumulation, irrigation water, or other potential sources of contamination. (3-24-22)( )

b. The following access requirements apply to, partially buried or below-ground storage structures. Each access manhole ~~shall~~ must be elevated a minimum of twenty-four (24) inches above the surface of the roof or the ground level, whichever is higher. The actual height above the surface of the roof or the ground level must be sufficient to prevent incidental contamination from snow accumulation, storm water runoff or accumulation, irrigation water, or other potential sources of contamination. (3-24-22)( )

c. Each manhole ~~shall~~ must be fitted with a solid water tight cover designed to prevent the entrance of contaminants. Each cover ~~shall~~ may be hinged only on one (1) side and ~~shall~~ have a locking device. Unless otherwise approved by the Department based ~~on documentation provided by the design engineer,~~ each cover ~~shall~~ will have a framed opening with the lid extending down around the frame at least two (2) inches, and the frame ~~shall~~ will be at least four (4) inches high. (3-24-22)( )

08. **Vents.** Finished water storage structures ~~shall~~ must be vented. The overflow pipe ~~shall~~ may not be considered a vent. Open construction between the sidewall and roof is not permissible. Vents ~~shall~~ must: (3-24-22)( )

a. Prevent the entrance of surface water and rainwater and extend twelve (12) inches above the roof. ( )

b. Exclude birds and animals. ( )

c. Exclude insects and dust, as much as this function can be made compatible with effective venting and be designed to mitigate blockage or freezing (see Subsection 544.11). (3-24-22)( )

d. On ground-level, partially buried, or below-ground structures, open downward with the opening at

least twenty-four (24) inches above the roof or the ground level and covered with twenty-four (24) mesh non-corrodible screen or similar non-corrodible screen. The screen ~~shall is to~~ be installed within the pipe at a location least susceptible to vandalism. (3-24-22)( )

e. On above-ground tanks and standpipes, open downward, and be fitted with twenty-four (24) mesh or similar non-corrodible screen. (3-24-22)

**09. Roof and Sidewall.** The roof and sidewalls of all water storage structures must be watertight with no openings except properly constructed vents, manholes, overflows, risers, drains, pump mountings, control ports, or piping for inflow and outflow. Particular attention ~~shall is to~~ be given to the sealing of roof structures which are not integral to the tank body. (3-24-22)( )

a. Any pipes running through the roof or sidewall of a metal storage structure must be welded, or properly gasketed. In concrete tanks, these pipes ~~shall must~~ be connected to standard wall castings which were poured in place during the forming of the concrete. (3-24-22)( )

b. Openings in the roof of a storage structure designed to accommodate control apparatus or pump columns ~~shall must~~ be curbed and sleeved with proper additional shielding to prevent contamination from surface or floor drainage. (3-24-22)( )

c. The roof of the storage structure ~~shall must~~ be sloped to facilitate drainage. Downspout pipes ~~shall may~~ not enter or pass through the reservoir. Parapets, or similar construction which ~~would tends~~ to hold water and snow on the roof, will not be approved unless adequate waterproofing and drainage are provided. (3-24-22)( )

d. Reservoirs with pre-cast concrete roof structures must be made watertight with the use of a waterproof membrane or similar product. ( )

**10. Construction Materials.** Materials used in storage facility construction ~~shall must~~ meet the requirements for water contact surfaces set forth in Subsection 501.01. Porous materials such as wood or concrete block are not acceptable for use in storage construction. (3-24-22)( )

**11. Protection from Freezing.** Finished water storage structures and their appurtenances, especially the riser pipes, overflows, and vents, ~~shall must~~ be designed to prevent freezing ~~which will interfere with proper functioning~~. (3-24-22)( )

**12. Internal Catwalk.** Every catwalk over finished water in a storage structure ~~shall must~~ have a solid floor with sealed raised edges, designed to prevent contamination ~~from shoe scrapings and dirt~~. (3-24-22)( )

**13. Silt Stops.** Removable silt stops ~~shall must~~ be provided to prevent sediment from entering the reservoir discharge pipe. (3-24-22)( )

**14. Grading.** The area surrounding a ground-level, partially buried, or below-ground structures ~~shall must~~ be graded in a manner that will prevent surface water from standing ~~within fifty (50) feet of it~~. (3-24-22)( )

**15. Coatings and Cathodic Protection.** Proper protection ~~shall must~~ be given to metal surfaces by paints or other protective coatings, by cathodic protective devices, or by both. (3-24-22)( )

**16. Disinfection.** Storage facilities ~~shall must~~ be disinfected in accordance with AWWA Standard C652, incorporated by reference into these rules at Subsection 002.01. Two (2) or more successive sets of samples, taken at twenty-four (24) hour intervals, ~~shall must~~ indicate microbiologically satisfactory water before the facility is placed into operation. (3-24-22)( )

**17. Abandonment.** All unused subsurface storage tanks ~~shall must~~ be removed and backfilled, or abandoned by extracting residual fluids and filling the structure with sand or fine gravel. (3-24-22)( )

**545. FACILITY AND DESIGN STANDARDS- TREATMENT PLANT STORAGE FACILITIES.**  
The design standards of Section 544 ~~shall~~ apply to treatment plant storage. (3-24-22)( )

01. **Filter Wash Water.** Filter wash water tanks ~~shall~~ must be sized, in conjunction with available pump units and finished water storage, to provide the backwash water required by Section 521. Consideration must be given to the backwashing of several filters in rapid succession. (3-24-22)(    )

02. **Clearwell.** When finished water storage is used to provide disinfectant contact time special attention must be given to tank size and baffling. An overflow and vent ~~shall~~ must be provided. A minimum of two (2) clearwell compartments ~~shall~~ must be provided to allow for cleaning or maintenance. Clearwells constructed under filters may be exempt from the requirements set out in Subsection 544.02.d. when the design provides adequate protection from contamination. (3-24-22)(    )

03. **Adjacent Storage.** Finished or treated water must not be stored or conveyed in a compartment adjacent to untreated or partially treated water when the two (2) compartments are separated by a single wall, unless approved by the ~~reviewing authority~~ Department. (3-24-22)(    )

04. **Other Treatment Plant Storage Tanks.** Unless otherwise allowed by the ~~reviewing authority~~ Department, other treatment plant storage tanks/basins such as detention basins, backwash reclaim tanks, receiving basins, and pump wet-wells for finished water ~~shall~~ must be designed as finished water storage structures. In addition, these tanks/basins ~~shall~~ must be designed to allow for cleaning or maintenance through temporary tanks, standby pumping capabilities, or other means approved by the Department. (3-24-22)(    )

546. ~~FACILITY AND DESIGN STANDARDS: DISTRIBUTION SYSTEM STORAGE FACILITIES.~~

01. **Design.** The applicable design standards of Section 544 ~~shall be followed for~~ apply to distribution system storage. (3-24-22)(    )

02. **Isolation.** Finished water storage structures which provide pressure directly to the distribution system ~~shall~~ must be designed so they can be isolated from the distribution system and drained for cleaning or maintenance without causing a loss of pressure in the distribution system. This requirement may be met through available temporary tanks, redundant pumping capabilities, or other temporary means approved by the Department. If the finished water storage structure provides fire flow for the ~~water system PWS~~, the ~~water system PWS~~ owner ~~shall~~ must provide the local fire authority advance notification of cleaning or maintenance events which isolate the structure from the distribution system and reduce available fire flow to less than the minimum required by the local fire authority. (3-24-22)(    )

03. **Drain.** Drains ~~shall~~ must discharge to daylight in a way that will preclude the possibility of backflow to the reservoir and, where practical, be provided with an expanded metal screen installed within the pipe that will exclude rodents and deter vandalism. The drain ~~shall~~ will, when practical, discharge at an elevation between twelve (12) and twenty-four (24) inches above the receiving surface, and discharge over a drainage inlet structure or a splash plate. (3-24-22)(    )

04. **Level Controls.** Adequate controls ~~shall~~ must be provided to maintain levels in distribution system storage structures. Level indicating devices ~~shall~~ must be provided at a central location. (3-24-22)(    )

547. ~~FACILITY AND DESIGN STANDARDS: HYDROPNEUMATIC TANK SYSTEMS.~~

Hydropneumatic tanks ~~use compressed air~~ may be used to regulate pump cycling and to absorb pressure surges (water hammer). ~~These tanks do not provide true storage. Systems serving more than one hundred fifty (150) homes are generally better served by providing reservoir storage, as set forth in Sections 544, 545 and 546~~ Hydropneumatic tanks may not be used for storage for PWSs serving more than one-hundred-fifty (150) connections unless otherwise approved by the Department. (3-24-22)(    )

01. ~~General~~ **Design of Hydropneumatic Systems.** Tanks must: (3-24-22)(    )

a. ~~Tanks shall~~ be located above normal ground surface and be completely housed. (3-24-22)(    )

b. ~~Tanks shall~~ have bypass piping to permit operation of the ~~system~~ PWS while the tank is being repaired or painted. Exterior surfaces and accessible interior surfaces ~~shall~~ are to be provided with protective coatings

and shall be maintained in good condition. Supports beneath tanks ~~shall must~~ be structurally sound. (3-24-22)( )

c. ~~Tanks shall be~~ sized to limit pump cycles to not more than six (6) per hour unless a pump manufacturer's warranty specifically supports more frequent cycling. The number of pump cycles may be increased in ~~systems PWSs~~ with multiple pumps if a means to automatically alternate pumps is provided. The Franklin Electric AIM manual, referenced in Subsection 002.02, Chapter 11 of the Washington State Department of Health Water System Design Manual, referenced in Subsection 002.02, or manufacturer's recommendations may be used as guidance in calculating the size of hydropneumatic tanks. (3-24-22)( )

d. ~~Tanks of greater than one hundred twenty (120) gallons volume shall~~ conform with the American Society of Mechanical Engineers (ASME) specifications code for unfired pressure vessels when they are of greater than one hundred twenty (120) gallons volume. Tanks of less than one hundred twenty (120) gallons volume ~~shall must~~ meet the ASME code or be certified by a nationally recognized testing agency to be capable of withstanding twice the maximum allowable working pressure. (3-24-22)( )

**02. Requirements Specific to Conventional Hydropneumatic Tanks.** Conventional tanks are those that have with a direct air to water interface and require periodic air recharge to compensate for absorption of air into the water. (3-24-22)( )

a. Each tank ~~shall must~~ have an access manhole, a drain, and control equipment consisting of a pressure gauge, water sight glass, automatic or manual air blow-off, means for adding air that is filtered or otherwise protected from contamination, and pressure operated start-stop controls for the pumps. If tank size allows, the access manhole ~~shall will~~ be at least twenty-four (24) inches in diameter. (3-24-22)( )

b. The gross volume of tanks in ~~systems PWSs~~ served by variable speed pumps may be less than that required for ~~systems PWSs~~ served by constant speed pumps. Design volumes ~~shall will~~ be approved by the Department on a site-specific basis. (3-24-22)( )

**03. Requirements Specific to Bladder Tanks.** Bladder tanks have a membrane that separates air and water inside the tank. ( )

a. Bladder tanks must be pre-charged with air to a pressure of five (5) psi below the setting at which the pump turns on (the low operating pressure for the ~~system PWS~~).

b. Each manifold assembly ~~shall must~~ have a pressure gauge and pressure operated start-stop controls for the pumps. (3-24-22)( )

c. The procedure for sizing bladder tanks is to determine the number of a selected size of tanks that are needed to provide pump protection. Reduced tank volume in ~~systems PWSs~~ served by variable speed pumps ~~shall will~~ be approved by the Department on a site-specific basis. (3-24-22)( )

**548. ~~FACILITY AND DESIGN STANDARDS: DISINFECTION OF FACILITIES PRIOR TO USE.~~**

Any supplier of water for a ~~public water system shall~~ PWS must ensure that new construction or modifications to an existing ~~system shall be~~ PWS are flushed and disinfected in accordance with American Water Works Association (AWWA) Standards, incorporated by reference into these rules at Subsection 002.01, prior to being placed into service. (3-24-22)( )

549. -- 551. (RESERVED)

**552. OPERATING CRITERIA FOR PUBLIC WATER SYSTEMS.**

**01. Quantity and Pressure Requirements.** Design requirements regarding pressure analysis are found in Section 542.13. (3-24-22)

a. ~~Minimum Capacity.~~ The minimum capacity of a ~~public drinking water system shall~~ PWS must be at least eight hundred (800) gallons per day per residence. (3-24-22)( )

i. The minimum capacity of eight hundred (800) gallons per day ~~shall be~~ is the design maximum day demand rate exclusive of irrigation and fire flow requirements. (3-24-22)( )

ii. The minimum capacity of eight hundred (800) gallons per day is only acceptable if the ~~public drinking water system~~ PWS has equalization storage of finished water in sufficient quantity to compensate for the difference between a ~~water system's~~ PWS's maximum pumping capacity and peak hour demand. (3-24-22)( )

iii. The design capacity of a ~~public drinking water system~~ PWS for material modifications may be less than eight hundred (800) gallons per day ~~per residence~~ if the ~~water system~~ PWS owner provides information that demonstrates to the Department's satisfaction the maximum day demand for the ~~system~~ PWS, exclusive of irrigation and fire flows, is less than eight hundred (800) gallons per day per residence. (3-24-22)( )

b. ~~Pressure. All public water systems shall~~ PWS owners must meet the following pressure requirements: (3-24-22)( )

i. ~~Any public water system shall be~~ Be capable of providing sufficient water during maximum day demand conditions, including fire flow where provided, to maintain a minimum pressure of twenty (20) psi throughout the distribution system, at ground level, as measured at the service connection or along the property line adjacent to the consumer's premises. (3-24-22)( )

ii. ~~Public Notification.~~ (3-24-22)

(1) ~~During unplanned or emergency situations, when water pressure within the system is known to have fallen below twenty (20) psi, the water supplier must notify the Department, provide public notice to the affected customers within twenty-four (24) hours, and disinfect or flush the system as appropriate. When sampling and corrective procedures have been conducted and after determination by the Department that the water is safe, the water supplier may re-notify the affected customers that the water is safe for consumption. The water supplier shall notify the affected customers if the water is not safe for consumption.~~ (3-24-22)

(2) ~~During planned maintenance or repair situations, when water pressure within the system is expected to fall below twenty (20) psi, the water supplier must provide public notice to the affected customers prior to the planned maintenance or repair activity and shall ensure that the water is safe for consumption.~~ (3-24-22)

iii. If an initial investigation by the water supplier fails to discover the causes of inadequate or excessive pressure, the Department may require the water supplier to conduct a local pressure monitoring study to diagnose and correct pressure problems. Compliance with these requirements by ~~water systems~~ PWSs that do not have a meter vault or other point of access at the service connection or along the property line adjacent to the consumer's premises where pressure in the distribution system can be reliably measured ~~shall~~ must be determined by measurements within the consumer's premises, or at another representative location acceptable to the Department. (3-24-22)( )

~~iv~~iii. Copies of pressure monitoring study reports required under Subsection 552.01.b.iii. detailing study results and any resulting corrective actions planned or performed by the ~~public water system shall~~ PWS owner must be submitted to the Department in accordance with these rules. (3-24-22)( )

iv. The following ~~public water systems~~ PWSs or service areas of ~~public water systems shall~~ PWSs must maintain a minimum pressure of forty (40) psi throughout the distribution system, during peak hour demand conditions, excluding fire flow, measured at the service connection or along the property line adjacent to the consumer's premises. (3-24-22)( )

(1) Any ~~public water system~~ PWS constructed or substantially modified after July 1, 1985. (3-24-22)( )

(2) Any new service areas. ( )

(3) Any ~~public water system~~ PWS that is undergoing material modification where it is feasible to meet the pressure requirements as part of the material modification. (3-24-22)( )

vi. Any ~~public water system shall~~ PWS must keep static pressure within the distribution system below ~~one hundred eighty (10080) psi and should ordinarily keep static pressure below eighty (80) psi.~~ Pressures above ~~one hundred eighty (10080) psi shall must~~ be controlled by pressure reducing valve stations installed in the distribution main. In areas where failure of installed pressure reducing valve stations ~~would~~ result in extremely high pressure, pressure relief valves may be required. The Department may approve the use of pressure reducing devices at individual service connections on a ~~case-by-case~~ basis, if it can be demonstrated that higher pressures in portions of the distribution system are required for efficient ~~system PWS~~ operation. If ~~system PWS~~ modification will cause pressure to routinely exceed eighty (80) psi, or if a check valve or an individual pressure reducing device is added to the service line, the ~~water system PWS~~ owner ~~shall must~~ notify affected customers. Notification may include reasons for the elevated pressure, problems or damage that elevated pressure can inflict on appliances or plumbing systems, and suggested procedures or mitigation efforts affected property owners may initiate to minimize problems or damage. (3-24-22)( )

vii. The Department may allow the installation of booster pump systems at individual service connections on a ~~case-by-case~~ basis. However, such an installation may only occur with the full knowledge and agreement of the ~~public water system PWS owner~~, including assurance by the ~~water system PWS~~ that the individual booster pump will cause no adverse effects on ~~system PWS~~ operation. (3-24-22)( )

viii. For elevated storage tanks, pressure calculations during peak hour demand ~~shall be~~ are based on the lowest water level after both operational storage and equalization storage have been exhausted. Pressure calculations during fire flow demands ~~shall be~~ are based on the lowest water level after operational storage, equalization storage, and fire suppression storage have been exhausted. (3-24-22)( )

~~ix~~viii. For hydropneumatic tanks, pressure calculations ~~shall be~~ are based on the lowest pressure of the pressure cycle and this requirement ~~shall must~~ be noted in the operation and maintenance manual. (3-24-22)( )

c. Fire Flows. Any ~~public water system PWS~~ designed to provide fire flows ~~shall must~~ ensure that such flows are compatible with the water demand of existing and planned fire-fighting equipment and fire fighting practices in the area served by the ~~system PWS~~. (3-24-22)( )

d. Irrigation Flows. ( )

i. Any ~~public water system PWS~~ constructed after November 1, 1977, ~~shall must~~ be capable of providing water for uncontrolled, simultaneous foreseeable irrigation demand, which ~~shall~~ includes all acreage that the ~~system PWS~~ is designed to irrigate. (3-24-22)( )

(1) The Department must concur with assumptions regarding the acreage to be irrigated. In general, an assumption that no outside watering will occur is considered unsound and is unlikely to be approved. ( )

(2) An assumption of minimal outside watering, as in recreational subdivisions, may be acceptable if design flows are adequate for maintenance of "green zones" for protection against wildland fire. ( )

ii. The Department may modify the requirement of Subsection 552.01.d.i. ~~may be modified by the~~ Department if: (3-24-22)( )

(1) A separate irrigation system is provided; or ( )

(2) The supplier of water can regulate the rate of irrigation through its police powers, and the ~~water system PWS~~ is designed to accommodate a regulated rate of irrigation flow. The Department may require the ~~water system PWS~~ to submit a legal opinion addressing the enforceability of such police powers. (3-24-22)( )

iii. If a separate non-potable irrigation system is provided for the consumers, all mains, hydrants and appurtenances ~~shall must~~ be easily identified as non-potable. The Department must concur with a plan to ensure that each new potable water service is not cross-connected with the irrigation system. (3-24-22)( )

02. Ground-Water. (3-24-22)( )



a. ~~Public water systems constructed after July 1, 1985, and~~ PWSs supplied by ground-water, ~~shall~~ **must** treat water within the ~~system~~ PWS by disinfection if the ground-water source is not protected from contamination. (3-24-22)( )

b. The Department may, ~~in its discretion,~~ require disinfection for any existing ~~public water system~~ PWS supplied by ground-water if the ~~system~~ PWS has repeated ~~coliform present samples or~~ E.coli MCL exceedances, and if the ~~system~~ PWS does not appear adequately protected from contamination. Adequate protection will be determined based upon at least the following factors: (3-24-22)( )

- i. Location of possible sources of contamination; ( )
- ii. Size of the well lot; ( )
- iii. Depth of the source of water; ( )
- iv. Bacteriological quality of the aquifer; ( )
- v. Geological characteristics of the area; and ( )
- vi. Adequacy of development of the source. ( )

03. **Operating Criteria.** The operating criteria for ~~systems~~ PWSs that provide filtration ~~shall be~~ **are** as follows: (3-24-22)( )

a. A project specific operation and maintenance manual ~~shall~~ **must** be provided as required in Subsection 501.12. See definition of Operation and Maintenance Manual in Section 003 for the typical contents of an operation and maintenance manual and the included operations plan. For the operations plan in the operation and maintenance manual, additional guidance for several types of filtration systems can be found in the Department's SWTR Compliance Guidance referenced in Subsection 002.02. (3-24-22)( )

b. The ~~system~~ **shall** PWS **must** conduct monitoring specified by the Department before serving water to the public in order to protect the health of consumers served by the ~~system~~ PWS. (3-24-22)( )

c. New treatment facilities ~~shall~~ **must** be operated in accordance with Subsection 552.03.a., and the ~~system~~ **shall** PWS **must** conduct monitoring specified by the Department for a trial period specified by the Department before serving water to the public in order to protect the health of consumers served by the ~~system~~ PWS. (3-24-22)( )

04. **Chlorination** ~~Disinfection.~~ **Systems** PWSs that regularly ~~add chlorine to~~ **disinfect** their water **using chlorine** are subject to the provisions of Section 320. **Systems** PWSs using surface water or ground-water under the direct influence of surface water, are subject to the disinfection requirements of Sections 300 and 518. **PWSs using chlorine, ozone, chlorine dioxide, or other disinfecting agents for the purposes of disinfection must meet the facility and design standards of Sections 530 and 531. PWSs using ultraviolet light for the purposes of disinfection must meet the facility and design standards of Section 529.** (3-24-22)( )

a. **Systems** PWSs using only ~~ground~~ water that ~~add chlorine~~ **a disinfectant** for the purpose of disinfection, as defined in Section 003, are subject to the following requirements: (3-24-22)( )

i. ~~Chlorinator and chlorine contact tank capacity shall be such that the system is able to~~ **The PWS must** demonstrate that it is routinely achieving four (4) logs (ninety-nine point ninety-nine percent) (99.99%) inactivation/removal of viruses. The required effective contact time ~~will be specified~~ **must be approved** by the Department. This condition must be attainable even when the ~~plant~~ design capacity coincides with anticipated maximum ~~chlorine~~ **disinfectant** demands. (3-24-22)( )

ii. A detectable ~~chlorine~~ **disinfectant** residual ~~shall~~ **must** be maintained throughout the distribution system. ~~PWSs disinfecting through ultraviolet light will need to maintain a supplemental disinfectant capable of~~

~~maintaining a detectable disinfectant residual.~~ (3-24-22)( )

~~iii. Automatic proportioning chlorinators are required where the rate of flow or chlorine demand is not reasonably constant.~~ (3-24-22)

~~iv.iii. Analysis for free chlorine disinfectant residual shall must be conducted at a location at or prior to the first service connection at least daily and records of these analyses shall are to be kept by the supplier of water for at least one (1) year. A report of all daily chlorine residual measurements for each calendar month shall must be submitted to the Department no later than the tenth day of the following month. The frequency of measuring free chlorine disinfectant residuals shall must be sufficient to detect variations in chlorine demand or changes in water flow.~~ (3-24-22)( )

~~v. If gas chlorination equipment is provided, a separate and ventilated room is required.~~ (3-24-22)

~~vi. The Department may, in its discretion, require a treatment rate higher than that specified in Subsection 552.04.a.i.~~ ( )

~~vii. When chlorine gas is used, chlorine leak detection devices and safety equipment shall be provided and equipped with both an audible alarm and a warning light.~~ (3-24-22)

~~viii. The Department may require redundant chlorine pumping capabilities with automatic switchover for systems with documented source water contamination problems and that lack adequate storage to supply the system during a pump failure.~~ (3-24-22)

**b.** ~~Systems PWSs using only ground-water that add chlorine disinfectant for the purpose of maintaining a disinfectant residual in the distribution system, when the source(s) is not at risk of microbial contamination, are subject to the following requirements:~~ (3-24-22)( )

~~i. Automatic proportioning chlorinators are required where the rate of flow or chlorine demand is not reasonably constant.~~ (3-24-22)

~~ii. A analysis for free chlorine disinfectant residual shall be made at a frequency that is sufficient to detect variations in chlorine demand or changes in water flow.~~ (3-24-22)( )

**c.** ~~Systems PWSs using only ground-water that add chlorine for other purposes, such as oxidation of metals or taste and odor control, when the source(s) is known to be free of microbial contamination, must ensure that chlorine residual entering the distribution system after treatment is less than four (4.0) mg/L. The requirements in Subsection 552.04.b.ii. also apply if the system PWS maintains a chlorine residual in the distribution system.~~ (3-24-22)( )

## **05. Fluoridation.** ( )

**a.** Commercial sodium fluoride, sodium silico fluoride and hydrofluosilicic acid which conform to the applicable American Water Works Association (AWWA) Standards, incorporated by reference into these rules at Subsection 002.01, are acceptable. Use of other chemicals shall must be specifically approved by the Department. (3-24-22)( )

**b.** Fluoride compounds shall are to be stored in covered or unopened shipping containers. (3-24-22)( )

**c.** Provisions shall must be made to minimize the quantity of fluoride dust. Empty bags, drums, or barrels shall are to be disposed of in a manner that will minimize exposure to fluoride dusts. (3-24-22)( )

**d.** Daily records of flow and amounts of fluoride added shall must be kept. An analysis for fluoride in finished water shall must be made at least weekly. Records of these analyses shall are to be kept by the supplier of water for five (5) years. (3-24-22)( )

**06. Cross Connection Control Program - Community Water Systems.** The water purveyor is responsible through its cross connection control program to take reasonable and prudent measures to protect the ~~water system PWS~~ against contamination and pollution from cross connections through premises isolation, internal or in-plant isolation, fixture protection, or some combination of premises isolation, internal isolation, and fixture protection. Pursuant to Section 543, all suppliers of water for community ~~water systems shall~~ PWSs must implement a cross connection control program to prevent the entrance to the ~~system PWS~~ of materials known to be toxic or hazardous. The water purveyor is responsible to enforce the ~~system's PWS's~~ cross connection control program. The program will at a minimum include: (3-24-22)( )

a. An inspection program to locate cross connections and determine required suitable protection. For new connections, PWS owners must install suitable protection ~~must be installed~~ prior to providing water service. (3-24-22)( )

b. Required installation and operation of adequate backflow prevention assemblies. Appropriate and adequate backflow prevention assembly types for various facilities, fixtures, equipment, and uses of water ~~should~~ must be selected from the ~~AWWA Pacific Northwest Section Cross Connection Control Manual, the~~ Uniform Plumbing Code, the AWWA Recommended Practice for Backflow Prevention and Cross Connection Control (M14), the USC Foundation Manual of Cross Connection Control, or other sources deemed acceptable by the Department. The assemblies must meet the requirements of Section 543 and comply with local ordinances. (3-24-22)( )

c. Annual inspections and testing of all installed backflow prevention assemblies by a tester licensed by a licensing authority recognized by the Department. Testing ~~shall~~ must be done in accordance with the test procedures published by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research. See the USC Foundation Manual of Cross-Connection Control referenced in Subsection 002.02. (3-24-22)( )

d. Discontinuance of service to any structure, facility, or premises where suitable backflow protection has not been provided for a cross connection. ( )

e. Assemblies that cannot pass annual tests or those found to be defective ~~shall~~ are to be repaired, replaced, or isolated within ten (10) business days. If the failed assembly cannot be repaired, replaced, or isolated within ten (10) business days, water service to the failed assembly ~~shall~~ must be discontinued. (3-24-22)( )

**07. Cross Connection Control - Non-Community Water Systems.** All suppliers of water for non-community water systems ~~shall~~ must ensure that cross connections do not exist or are isolated from the potable water system by an approved backflow prevention assembly. Backflow prevention assemblies ~~shall~~ must be inspected and tested annually for functionality by an Idaho licensed tester, as specified in Subsections 552.06.c. and 552.06.e. (3-24-22)( )

**08. Start-up Procedures For Seasonal Systems Subject To Subsections 100.01.a., c., and d.** ( )

a. All seasonal ~~system PWS~~ owners ~~and operators~~ must demonstrate completion of a Department approved start-up procedure, including start-up sampling, prior to serving water to the public. The ~~system PWS~~ owner ~~or operator~~ must submit information on a Department provided or approved form that includes a statement certifying that the ~~system PWS~~ owner or operator followed proper start-up procedures. The form ~~shall~~ must be submitted to the Department within 30 (thirty) days following the ~~system's PWS's~~ start-up date. Start-up sampling must include total coliform samples submitted to a certified laboratory demonstrating the absence of total coliform within thirty (30) days prior to serving water to the public. (3-24-22)( )

b. The Department may exempt any seasonal ~~system PWS~~ from Subsection 552.08.a. if the entire distribution system remains pressurized during the entire period that the ~~system PWS~~ is not operating, except that the ~~systems PWSs~~ that monitor less frequently than monthly must still monitor during the vulnerable period designated by the Department. The Department may exempt a seasonal ~~system PWS~~ from Subsection 552.08.a. if the owner or operator of the ~~system PWS~~ meets all of the following conditions: (3-24-22)( )

i. Requests an exemption in writing to the Department for approval; ( )

- ii. Demonstrates a clean compliance history as defined in Section 003 for a minimum of five (5) years; ( )
- iii. Has no uncorrected significant deficiencies from the most recent sanitary survey; and ( )
- iv. Total coliform samples submitted to a certified laboratory within 30 (thirty) days prior to serving water to the public demonstrate the absence of total coliform. ( )

**553. CLASSIFICATION OF WATER SYSTEMS.**

**01. System Classification Required.** The Department ~~shall~~ will classify community, non-transient non-community, and surface water ~~systems~~ PWSs based on indicators of potential health risks. (3-24-22)( )

~~a. The owner or designee of every community and nontransient noncommunity public water system shall submit proof of the current conditions related to the classification of the system every five (5) years or more frequently if required by the Department. (3-24-22)~~

~~b. The owner or designee of all surface water systems shall submit proof of the current conditions related to the classification of the system every five (5) years or more frequently if required by the Department. (3-24-22)~~

**02. Classification Criteria.** ~~Systems shall be~~ PWSs are classified under a system that uses the following criteria: (3-24-22)( )

- a. Complexity, size, and type of source water for treatment facilities. ( )
- b. Complexity and size of distribution systems. ( )
- c. Other criteria deemed necessary to completely classify ~~systems~~ PWSs. (3-24-22)( )
- d. The Department ~~shall~~ will develop guidelines for applying the criteria set forth in Section 553. (3-24-22)( )

**03. Classification Review.** The Department will review PWS classifications on a minimum five (5) year frequency. ( )

**554. LICENSED OPERATOR REQUIREMENTS.**

**01. Licensed Operator Required.** ( )

~~a. Owners of all community, and non-transient non-community, public drinking water systems and surface water or groundwater sources directly influenced by surface water must place the direct supervision of their drinking water system, including each treatment facility and distribution system, PWS under the responsible charge of a properly licensed operator at all times. When the responsible operator is not available, the PWS owner must designate a substitute responsible operator. (3-24-22)( )~~

~~b. Owners of all surface water systems must place the direct supervision of their public drinking water system under the responsible charge of a properly licensed operator. (3-24-22)~~

**02. Responsible Charge Operator License Requirement.** An operator in responsible charge of a ~~public drinking water system~~ PWS must hold a valid Idaho license equal to or greater than the classification of the ~~public water system~~ PWS where the responsible charge operator is in ~~responsible~~ charge as defined in Section 003. Responsible charge means active, daily on-site or on-call responsibility for the performance of operations or active, ~~on-going, on-site, or on-call direction of employees and assistants.~~ (3-24-22)( )

~~03. Substitute Responsible Charge Operator License Requirement. At such times as the~~

~~responsible charge operator is not available, a substitute responsible charge operator shall be designated to replace the responsible charge operator. A substitute responsible charge operator of a public water system must hold a valid license equal to or greater than the classification of the public water system where the substitute responsible charge operator is in responsible charge. (3-24-22)~~

~~**04. Shift Operator Requirement.** Any public drinking water system subject to these requirements with multiple operating shifts must have a designated properly licensed operator available for each operating shift. An on duty designated shift operator does not replace the requirements in Subsections 554.01 and 554.03 for responsible charge operator coverage during all operating shifts. (3-24-22)~~

~~**053. Water Operator License Requirement.** All operating personnel at public drinking water systems PWSs subject to these requirements making process control/ system integrity decisions about water quality or quantity that can affect public health must hold a valid Idaho and current license. (3-24-22)(    )~~

~~**04. Water Operator License Upgrade Allowance.** A twelve (12) month period will be provided to meet increased drinking water distribution system operator licensure requirements when a higher licensure level is required based on a population increase if the following requirements are met: (    )~~

~~a. The licensure increase is triggered solely by a population increase; and (    )~~

~~b. The responsible charge operator of the PWS at the time the distribution licensure requirement increases remains the responsible charge operator throughout the twelve (12) month timeframe. (    )~~

**555. -- 559. (RESERVED)**

**560. CONTRACTING FOR SERVICES.**

~~Public water systems may PWS owners who contract with persons to provide responsible charge operators and substitute responsible charge operators; need to submit P proof of such contract ~~shall be submitted~~ to the Department prior to the contracted person performing any services at the ~~public water system~~ PWS. (3-24-22)(    )~~

**561. -- 562. (RESERVED)**

**563. ADVISORY GROUP.**

~~Stakeholder Involvement.~~ Ongoing stakeholder involvement will be provided through the existing drinking water advisory committee at the Department. (3-24-22)(    )

**564. -- 899. (RESERVED)**

**900. TABLES:**

~~**01. Table 1—Minimum Distances From a Public Water System Well.**~~

<del>Minimum Distances from a Public Water System Well</del>	
<del>Gravity wastewater line</del>	<del>50 feet</del>
<del>Any potential source of contamination</del>	<del>50 feet</del>
<del>Pressure wastewater line</del>	<del>100 feet</del>
<del>Class A Municipal Reclaimed Wastewater Pressure distribution line</del>	<del>50 feet</del>
<del>Individual home septic tank</del>	<del>100 feet</del>
<del>Individual home disposal field</del>	<del>100 feet</del>
<del>Individual home seepage pit</del>	<del>100 feet</del>

<b>Minimum Distances from a Public Water System Well</b>	
Privies	400 feet
Livestock	50 feet
Drainfield—standard subsurface disposal module	400 feet
Absorption module—large soil absorption system	150—300 feet, see IDAPA 58.01.03
Canals, streams, ditches, lakes, ponds and tanks used to store non-potable substances	50 feet
Storm water facilities disposing storm water originating off the well lot	50 feet
Municipal or industrial wastewater treatment plant	500 feet
Reclamation and reuse of municipal and industrial wastewater sites	See IDAPA 58.01.17
Biosolids application site	4,000 feet

(3-24-22)

02. **Table 2—Well Casing Standards for Public Water System Wells.**

<b>STEEL PIPE</b>					
				WEIGHT PER FOOT (pounds)	
DIAMETER (inches)			THICKNESS (inches)	Plain Ends	With Threads and Couplings
SIZE	External	Internal		(calculated)	(nominal)
6 (4d)*	6.625	6.065	0.280	18.97	19.18
8	8.625	7.981	0.322	28.55	29.35
10	10.750	10.020	0.365	40.48	41.85
12	12.750	12.000	0.375	49.56	51.15
14 (6d)*	14.000	13.250	0.375	54.57	57.00
16	16.000	15.250	0.375	62.58	
18	18.000	17.250	0.375	70.59	
20	20.000	19.250	0.375	78.60	
22	22.000	21.000	0.500	114.81	
24	24.000	23.000	0.500	125.49	
26	26.000	25.000	0.500	136.17	
28	28.000	27.000	0.500	146.85	
30	30.000	29.000	0.500	157.53	

STEEL PIPE					
<del>32</del>	<del>32.000</del>	<del>31.000</del>	<del>0.500</del>	<del>168.21</del>	
<del>34</del>	<del>34.000</del>	<del>33.000</del>	<del>0.500</del>	<del>178.89</del>	
<del>36</del>	<del>36.000</del>	<del>35.000</del>	<del>0.500</del>	<del>189.57</del>	

\* id = inside diameter  
od = outside diameter

(3-24-22)

~~901. - 999.~~ (RESERVED)

## IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

### 58.01.10 – RULES REGULATING THE DISPOSAL OF RADIOACTIVE MATERIALS NOT REGULATED UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

DOCKET NO. 58-0110-2301

#### NOTICE OF INTENT TO PROMULGATE RULES – ZERO-BASED REGULATION (ZBR) NEGOTIATED RULEMAKING

**AUTHORITY:** In compliance with Section 67-5220, Idaho Code, notice is hereby given that this agency intends to promulgate a rule and desires public participation before publishing a proposed rule. This rulemaking action is authorized by Section 39-4405, Idaho Code.

**METHOD OF PARTICIPATION:** Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meeting. For those who cannot participate by attending the meeting, information for submission of written comments is provided at the end of this notice.

**MEETING SCHEDULE:** A negotiated rulemaking meeting has been scheduled. Any additional meeting dates will be posted at: <https://www.deq.idaho.gov/disposal-radioactive-materials-docket-no-58-0110-2301/>.

**Thursday, September 21, 2023, at 9:00 a.m. MT**

**ATTEND IN PERSON OR VIA MICROSOFT TEAMS**

**DEQ State Office  
Conference Rooms A & B  
1410 N. Hilton  
Boise, ID 83706**

**The Teams meeting link is available at:**

**<https://www.deq.idaho.gov/disposal-radioactive-materials-docket-no-58-0110-2301/>**

The meeting location will be accessible to persons with disabilities, and language translators will be made available upon request. Requests must be made no later than five (5) business days prior to the meeting date. For arrangements contact the undersigned.

**DESCRIPTIVE SUMMARY:** DEQ initiated this rulemaking in compliance with [Executive Order No. 2020-01, Zero-Based Regulation \(EO 2020-01\)](#), issued by Governor Little on January 16, 2020. Pursuant to EO 2020-01, each rule chapter effective on June 30, 2020, shall be reviewed by the agency that promulgated the rule. The review will be conducted according to a schedule established by the Division of Financial Management, Office of the Governor (DFM), posted at [https://adminrules.idaho.gov/forms\\_menu.html](https://adminrules.idaho.gov/forms_menu.html). This is one of the DEQ rule chapters up for review in 2024. The goal of the rulemaking is to perform a critical and comprehensive review of the entire chapter in an attempt to reduce overall regulatory burden, streamline various provisions, increase clarity and ease of use, and maintain state program approval.

This rulemaking will include a review of waste acceptance criteria for radioactive material at approved solid waste facilities with the potential to establish minimum and maximum concentration thresholds.

DEQ will review the list of federal regulations incorporated by reference in Section 004 and will revise the list if necessary.

**PRELIMINARY DRAFT RULE:** The preliminary draft rule is available at: <https://www.deq.idaho.gov/disposal-radioactive-materials-docket-no-58-0110-2301/>. DEQ will facilitate negotiation of this rule in conjunction with a committee made up of stakeholders having an interest in the development of the rule. Citizens of the state of Idaho, environmental groups, drinking and wastewater treatment facilities, and oil and gas exploration and development



companies may be interested in participating in this rulemaking. Upon conclusion of negotiations, DEQ intends to publish a proposed rule for public comment.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning this rulemaking, contact Albert Crawshaw at [albert.crawshaw@deq.idaho.gov](mailto:albert.crawshaw@deq.idaho.gov) or (208) 373-0554.

**SUBMISSION OF WRITTEN COMMENTS:** Information regarding public comment opportunities provided throughout the rulemaking process will be available at: <https://www.deq.idaho.gov/disposal-radioactive-materials-docket-no-58-0110-2301/>.

Dated this 6th day of September, 2023.

Caroline Moores  
Operations Senior Analyst  
Department of Environmental Quality  
1410 N. Hilton Street  
Boise, Idaho 83706  
Phone: (208)373-0149  
[caroline.moores@deq.idaho.gov](mailto:caroline.moores@deq.idaho.gov)

## IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

### 58.01.25 – RULES REGULATING THE IDAHO POLLUTANT DISCHARGE ELIMINATION SYSTEM PROGRAM

#### DOCKET NO. 58-0125-2301 (ZBR CHAPTER REWRITE, FEE RULE)

#### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. This action is authorized by Sections 39-105, 39-107, and 39-175C, Idaho Code.

**PUBLIC HEARING SCHEDULE:** No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before September 22, 2023. If no such written request is received, a public hearing will not be held. Two public meetings were held during the negotiated rulemaking process.

**DESCRIPTIVE SUMMARY:** DEQ initiated this rulemaking in compliance with [Executive Order No. 2020-01, Zero-Based Regulation \(EO 2020-01\)](#), issued by Governor Little on January 16, 2020. Pursuant to EO 2020-01, each rule chapter effective on June 30, 2020, shall be reviewed by the agency that promulgated the rule. The review will be conducted according to a schedule established by the Division of Financial Management, Office of the Governor (DFM), posted at [https://adminrules.idaho.gov/forms\\_menu.html](https://adminrules.idaho.gov/forms_menu.html). This is one of the DEQ rule chapters up for review in 2023. The goal of the rulemaking is to perform a critical and comprehensive review of the entire chapter in an attempt to reduce overall regulatory burden, streamline various provisions, increase clarity and ease of use, and maintain state program approval.

This rulemaking also updates federal regulations incorporated by reference with the July 1, 2023 Code of Federal Regulations (CFR) effective date. The July 1, 2023 CFR is a codification of federal regulations published in the Federal Register as of July 1, 2023. Adoption of federal regulations is necessary to maintain program primacy. Incorporation by reference allows DEQ to keep its rules up to date with federal regulations and simplifies compliance for the regulated community.

Citizens of the state of Idaho; environmental groups; major and minor municipal dischargers; industrial dischargers; facilities, organizations and individuals seeking coverage under a general permit; facilities that currently have or will have a pretreatment permit to a wastewater facility; and others interested in point source discharges to Idaho's surface waters may be interested in commenting on this proposed rule. The rule is expected to be final and effective upon the conclusion of the 2024 legislative session if adopted by the Board and approved by the Idaho Legislature.

**FEE SUMMARY:** This rulemaking does not impose or increase a fee beyond what was previously submitted to and reviewed by the Idaho Legislature in prior rules. Fees included in this rule chapter are authorized by Idaho Code § 39-175C.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: Not applicable.

**NEGOTIATED RULEMAKING:** On April 5, 2023, the notice of negotiated rulemaking was published in the Idaho Administrative Bulletin and on April 7, 2023, a preliminary draft rule was posted on DEQ's website. Meetings were held on April 20 and June 1, 2023. Stakeholders and members of the public participated by receiving email notifications, attending the meetings, reviewing DEQ's presentations, and submitting comments. Key information was posted on DEQ's website and distributed to persons who participated in the negotiated rulemaking.

All comments received during the negotiated rulemaking process were considered by DEQ when making decisions regarding the development of the rule. At the conclusion of the negotiated rulemaking process, DEQ submitted the draft rule to the Division of Financial Management for review. DEQ formatted the draft for publication as a proposed rule and is now seeking public comment. The negotiated rulemaking record, which includes the negotiated rule drafts, documents distributed during the negotiated rulemaking process, and the negotiated rulemaking summary, is available at <https://www.deq.idaho.gov/ipdes-docket-no-58-0125-2301/>.

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

Adoption of federal regulations is necessary to maintain program primacy, allows DEQ to keep its rules up to date with federal regulation changes, and simplifies compliance for the regulated community. Information for obtaining a copy of the federal regulations is included in the rule.

In compliance with Idaho Code 67-5223(4), DEQ prepared a brief synopsis detailing the substantive differences between the previously incorporated material and the latest revised edition or version of the incorporated material being proposed for incorporation by reference. The Overview of Incorporations by Reference is available at <https://www.deq.idaho.gov/ipdes-docket-no-58-0125-2301/>

**IDAHO CODE SECTION 39-107D STATEMENT:** This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning this proposed rulemaking, contact Mary Anne Nelson at [mary.anne.nelson@deq.idaho.gov](mailto:mary.anne.nelson@deq.idaho.gov) or (208) 373-0291.

**SUBMISSION OF WRITTEN COMMENTS:** Anyone may submit written comments regarding this proposed rule. The Department will consider all written comments received on or before October 6, 2023. Submit written comments to:

Mary Anne Nelson  
Department of Environmental Quality  
1410 N. Hilton, Boise, ID 83706  
[mary.anne.nelson@deq.idaho.gov](mailto:mary.anne.nelson@deq.idaho.gov)

Dated this 6th day of September, 2023

Caroline Moores  
Operations Senior Analyst  
Department of Environmental Quality  
1410 N. Hilton Street  
Boise, Idaho 83706  
Phone: (208)373-0149  
[caroline.moores@deq.idaho.gov](mailto:caroline.moores@deq.idaho.gov)

**THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 58-0125-2301**  
**(ZBR Chapter Rewrite)**

**58.01.25 – ~~RULES REGULATING THE~~ IDAHO POLLUTANT DISCHARGE**  
**ELIMINATION SYSTEM ~~PROGRAM~~ RULES**

**000. LEGAL AUTHORITY.**

~~The Department and the Board are authorized to formulate and adopt rules as are necessary to obtain approval of the IPDES program by EPA pursuant to Section 39-175C, Idaho Code. The Department is authorized to implement and enforce the rules in this chapter pursuant to the Sections 39-175A-C and the provisions of the Environmental Protection and Health Act, Sections 39-101 et seq., Idaho Code. The rules in this chapter are not effective until the~~

~~requirements in Section 39-175C, Idaho Code, have been met and the United States EPA has approved, under 33 U.S.C. 1342(b), Idaho's administration of the IPDES program. Sections 39-105, 39-107, and 39-175C, Idaho Code.~~  
(3-24-22)(\_\_\_\_)

**001. TITLE AND SCOPE.**

~~01. Title. The rules are titled IDAPA 58.01.25, "Rules Regulating the Idaho Pollutant Discharge Elimination System Program."~~  
(3-24-22)

~~02. Scope. These rules establish the procedures and requirements for the issuance issuing and maintenance of maintaining IPDES permits for facilities or activities for which a person is required by Idaho Code and the Clean Water Act (CWA) to obtain authorization to discharge pollutants to waters of the United States. These permits are referred to in these rules as "IPDES permits" or "permits."~~  
(3-24-22)(\_\_\_\_)

**002. CONFIDENTIALITY OF RECORDS.**

~~01. Identifying Confidential Information. Information obtained by the Department under these rules is subject to public disclosure pursuant to under the provisions of Chapter 1, Title 74, Idaho Code, and IDAPA 58.01.23, "Contested Case Rules and Rules for Protection and Disclosure of Records." In accordance with Sections 74-101 through 74-119, Idaho Code, any information submitted to the Department pursuant to under these rules may be claimed as confidential by the submitter. It is the responsibility of the submitter to give notice of the existence of a must claim of confidentiality on each page or on another portion of the information at the time of submittal and such person has the burden of demonstrating when submitted and has the burden to demonstrate that the information is confidential.~~  
(3-24-22)(\_\_\_\_)

~~02. Denial of Confidential Claims. In accordance with Section 74-114, Idaho Code, a claim of confidentiality, including but not limited to a claim as to information claimed confidential as a trade secret, will be denied and any person may inspect and copy:~~  
(3-24-22)

~~a. The name and address of any IPDES applicant or permittee;~~  
(3-24-22)

~~b. The content of any IPDES permit;~~  
(3-24-22)

~~c. IPDES permit applications, and information required to be submitted by IPDES application forms under Section 105 (Application for an Individual IPDES Permit), or IPDES General Permit Notice of Intent, and information required to be submitted under Section 130 (General Permits), whether the information is submitted on the application forms themselves or in any attachments used to supply information required by the application forms; and~~  
(3-24-22)

~~d. Effluent data as defined in 40 CFR 2.302.~~  
(3-24-22)

**003. INCORPORATION BY REFERENCE OF FEDERAL REGULATIONS.**

~~01. Availability of Reference Material. Codes, standards and regulations may be incorporated by reference in this rule pursuant to Section 67-5229, Idaho Code. Codes, standards or regulations adopted by reference throughout this rule are available in the following locations:~~  
(3-24-22)

~~a. Department of Environmental Quality. Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255.~~  
(3-24-22)

~~b. Law Library. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, ID 83720-0051.~~  
(3-24-22)

~~c. Electronic Code of Federal Regulations (eCFR) <http://www.ecfr.gov/cgi-bin/ECFR>.~~  
(3-24-22)

~~02. Incorporation by Reference. The following documents are incorporated by reference into these rules. Any reference in these rules to requirements, procedures, or specific forms contained in any section or~~

~~subsection constitute the full adoption by reference of that section or subsection, including any notes and appendices therein, unless expressly provided otherwise in these rules:~~ (3-24-22)( )

- a. 40 CFR 122.21(r), revised as of July 1, ~~2020~~ 2023 (Application Requirements for Facilities with Cooling Water Intake Structures); (3-24-22)( )
- b. 40 CFR 122.23, revised as of July 1, ~~2020~~ 2023 (Concentrated Animal Feeding Operations); (3-24-22)( )
- c. 40 CFR 122.24, revised as of July 1, ~~2020~~ 2023 (Concentrated Aquatic Animal Production Facilities); (3-24-22)( )
- d. 40 CFR 122.25, revised as of July 1, ~~2020~~ 2023 (Aquaculture Projects); (3-24-22)( )
- e. 40 CFR 122.26(a) through (b) and 40 CFR 122.26(e) through (g), revised as of July 1, ~~2020~~ 2023 (Storm Water Discharges); (3-24-22)( )
- f. 40 CFR 122.27, revised as of July 1, ~~2020~~ 2023 (Silvicultural Activities); (3-24-22)( )
- g. 40 CFR 122.29(d), revised as of July 1, ~~2020~~ 2023 (Effect of Compliance with New Source Performance Standards); (3-24-22)( )
- h. 40 CFR 122.30 and 40 CFR 122.32 through 40 CFR 122.37, revised as of July 1, ~~2020~~ 2023 (Requirements and Guidance for Small Municipal Separate Storm Sewer Systems); (3-24-22)( )
- i. 40 CFR 122.42(e), revised as of July 1, ~~2020~~ 2023 (Additional Conditions Applicable to NPDES Permits for Concentrated Animal Feeding Operations); (3-24-22)( )
- j. Appendix A to 40 CFR 122, revised as of July 1, ~~2020~~ 2023 (NPDES Primary Industry Categories); (3-24-22)( )
- k. Appendix C to 40 CFR 122, revised as of July 1, ~~2020~~ 2023 (Criteria for Determining a Concentrated Aquatic Animal Production Facility); (3-24-22)( )
- l. Appendix D to 40 CFR 122, revised as of July 1, ~~2020~~ 2023 (NPDES Permit Application Testing Requirements); (3-24-22)( )
- m. Appendix J to 40 CFR 122, revised as of July 1, ~~2020~~ 2023 (NPDES Permit Testing Requirements for Publicly Owned Treatment Works); (3-24-22)( )
- n. 40 CFR 125.1 through 40 CFR 125.3 (Subpart A), revised as of July 1, ~~2020~~ 2023 (Criteria and Standards for Imposing Technology-Based Treatment Requirements Under Sections 301(b) and 402 of the Clean Water Act); (3-24-22)( )
- o. 40 CFR 125.10 through 40 CFR 125.11 (Subpart B), revised as of July 1, ~~2020~~ 2023 (Criteria for Issuance of Permits to Aquaculture Projects); (3-24-22)( )
- p. 40 CFR 125.30 through 40 CFR 125.32 (Subpart D), revised as of July 1, ~~2020~~ 2023 (Criteria and Standards for Determining Fundamentally Different Factors Under Sections 301(b)(1)(A) and 301(b)(2)(A) and (E) of the Clean Water Act); (3-24-22)( )
- q. 40 CFR 125.70 through 40 CFR 125.73 (Subpart H), revised as of July 1, ~~2020~~ 2023 (Criteria for Determining Alternative Effluent Limitations Under Section 316(a) of the Clean Water Act); (3-24-22)( )
- r. 40 CFR 125.80 through 40 CFR 125.89 (Subpart I), revised as of July 1, ~~2020~~ 2023 (Requirements Applicable to Cooling Water Intake Structures for New Facilities Under Section 316(b) of the Clean Water Act); (3-24-22)( )

- s. 40 CFR 125.90 through 40 CFR 125.99 (Subpart J), revised as of July 1, ~~2020~~ 2023 (Requirements Applicable to Cooling Water Intake Structures for Phase II Existing Facilities Under Section 316(b) of the Clean Water Act); (3-24-22)( )
- t. 40 CFR 127.11 through 40 CFR 127.16 (Subpart B), revised as of July 1, ~~2020~~ 2023 (Electronic Reporting of NPDES Information from NPDES-Regulated Facilities); (3-24-22)( )
- u. 40 CFR 129.1 through 40 CFR 129.105 (Subpart A), revised as of July 1, ~~2020~~ 2023 (Toxic Pollutant Effluent Standards and Prohibitions); (3-24-22)( )
- v. 40 CFR 133.100 through 40 CFR 133.105, revised as of July 1, ~~2020~~ 2023 (Secondary Treatment Regulation); (3-24-22)( )
- w. 40 CFR Part 136, revised as of July 1, ~~2020~~ 2023 (Guidelines Establishing Test Procedures for the Analysis of Pollutants, including Appendices A, B, C, and D); (3-24-22)( )
- x. 40 CFR Part 401, revised as of July 1, ~~2020~~ 2023 (General Provisions); (3-24-22)( )
- y. 40 CFR 403.1 through 40 CFR 403.3; 40 CFR 403.5 through 40 CFR 403.18, revised as of July 1, ~~2020~~ 2023 (General Pretreatment Regulations for Existing and New Sources of Pollution, including Appendices D, E, and G); (3-24-22)( )
- z. 40 CFR Part 405 through 40 CFR Part 471, revised as of July 1, ~~2020~~ 2023 (Effluent Limitations and Guidelines); and (3-24-22)( )
- aa. 40 CFR 503.2 through 40 CFR 503.48, revised as of July 1, ~~2020~~ 2023 (Sewage Sludge, including Appendices A and B). (3-24-22)( )
- bb. The term “Waters of the United States or waters of the U.S.,” as defined in ~~40 CFR 122.2, revised as of June 22, 2020, by 85 Federal Register 22250-22342 (April 21, 2020), unless said revision is stayed, overturned or invalidated by a court of law or withdrawn by EPA, in which case the Department incorporates by reference the term “Waters of the United States or waters of the U.S.” as defined in 40 CFR 122.2, revised as of 84 Federal Register 56626, 56669, October 22, 2019 (effective December 23, 2019).~~ (3-24-22)( )
- 032. Term Interpretation.** For the federal regulations incorporated by reference into these rules, unless the context in which a term is used clearly requires a different meaning, terms in this section ~~have the following meanings:~~ (3-24-22)( )
- a. ~~The term~~ Administrator or Regional Administrator means the EPA Region 10 Administrator; (3-24-22)( )
- b. Approval Authority means the Department of Environmental Quality; ( )
- c. Approved POTW Pretreatment Program or Program or POTW Pretreatment Program means a program administered by a POTW that meets the criteria established in 40 CFR 403.8 and 403.9, and has been approved by the Department in accordance with 40 CFR 403.1; ( )
- bd. ~~The term~~ Control Authority means the POTW for a facility with a Department-approved pretreatment program and the Department for a POTW without a Department-approved pretreatment program; (3-24-22)( )
- ee. ~~The term~~ Director, ~~or~~ State Director, or State Program Director, means the Director of the Department of Environmental Quality with an NPDES permit program approved pursuant to ~~section 402(b) of the Clean Water Act~~ CWA Section 402(b); (3-24-22)( )
- df. ~~The term~~ National Pollutant Discharge Elimination System (NPDES) means the Idaho Pollutant

Discharge Elimination System (IPDES); (3-24-22)( )

**g.** ~~National Pretreatment Standard, Pretreatment Standard, or Standard means a regulation containing pollutant discharge limits promulgated by the EPA in accordance with CWA Sections 307 (b) and (c), which applies to Industrial Users. This term includes prohibited discharge limits established under 40 CFR 403.5 or following procedures outlined in 40 CFR 403.8;~~ ( )

**eh.** ~~The term~~ Permitting Authority (~~also preceded by the terms~~ NPDES or State) means the ~~Idaho~~ Department of Environmental Quality with an NPDES permit program approved pursuant to ~~section 402(b) of the Clean Water Act, CWA Section 402(b); and~~ (3-24-22)( )

**i.** ~~Water Management Division Director means a Director of the Water Management Division within the US Environmental Protection Agency Region 10 office or this person's delegated representative.~~ ( )

**004. ADMINISTRATIVE PROVISIONS.**

Persons may be entitled to appeal final IPDES permit decisions ~~pursuant to~~ under Section 204 (~~Appeals Process~~) of these rules. (3-24-22)( )

**005. WRITTEN INTERPRETATIONS.**

~~As described in Section 67-5201(19)(b)(iv), Idaho Code, the Department of Environmental Quality may have written statements which pertain to the interpretation of these rules. If available, such written statements can be inspected and copied at cost at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255.~~ (3-24-22)

**006. OFFICE HOURS — MAILING ADDRESS AND STREET ADDRESS.**

~~The state office of the Department of Environmental Quality is located at 1410 N. Hilton, Boise, Idaho 83706, (208) 373-0502, www.deq.idaho.gov. The office hours are 8 a.m. to 5 p.m. Monday through Friday.~~ (3-24-22)

**007.5. -- 009. (RESERVED)**

**010. DEFINITIONS.**

~~For the purpose of the rules contained in IDAPA 58.01.25, "Rules Regulating the Idaho Pollutant Discharge Elimination System Program," the following definitions apply. Terms not expressly defined in this section have the meaning provided by are defined in IDAPA 58.01.02, Section 010, "Water Quality Standards," or IDAPA 58.01.16, Section 010, "Wastewater Rules."~~ (3-24-22)( )

**01. Animal Feeding Operation.** ~~A lot or facility (other than an aquatic animal production facility) where the following conditions are met:~~ (3-24-22)

**a.** ~~Animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of forty-five (45) days or more in any twelve (12)-month period; and~~ (3-24-22)

**b.** ~~Crops, vegetation, forage growth, or post harvest residues are not sustained in the normal growing season over any portion of the lot or facility.~~ As defined in 40CFR 122.23. (3-24-22)( )

**02. Applicable Standards and Limitations.** ~~All~~ sState, interstate, and federal standards and limitations to which a discharge, ~~a~~ sewage sludge use or disposal practice, or ~~a~~ related activity is subject under the ~~Clean Water Act~~ CWA, including effluent limitations, water quality standards, standards of performance, toxic effluent standards or prohibitions, best management practices (BMP), pretreatment standards, and standards for sewage sludge use or disposal under ~~the Clean Water Act sections~~ CWA Sections 301, 302, 303, 304, 306, 307, 308, 402, and 405. (3-24-22)( )

**03. Application.** ~~The~~ IPDES forms for applying for a permit or the EPA equivalent ~~standard national~~ forms when deemed acceptable by the Department, including ~~any~~ additions, revisions, or modifications to the forms. (3-24-22)( )

**04. Approved Program or Approved State.** A state or interstate program ~~which has been~~ approved or authorized by EPA under 40 CFR Part 123. (3-24-22)( )

05. **Aquaculture Project.** ~~A defined managed water area which uses discharges of pollutants into that designated area for the maintenance or production of harvestable freshwater, estuarine, or marine plants or animals. As defined in CFR 122.25.~~ (3-24-22)( )

06. **Average Monthly Discharge Limitation.** The highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month. ( )

07. **Average Weekly Discharge Limitation.** The highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week. ( )

08. **Background.** The biological, chemical or physical condition of waters measured at a point immediately upstream (up-gradient) of the influence of an individual point or nonpoint source discharge. If several discharges to the water exist or if an adequate upstream point of measurement is absent, the Department will determine where background conditions ~~should~~ will be measured. (3-24-22)( )

09. **Best Management Practices (BMPs).** ~~Schedules of activities, prohibitions of Scheduled activities, prohibited~~ practices, maintenance procedures, and other management practices to which prevent or reduce the pollution of waters of the United States. BMPs ~~also~~ include treatment requirements; operating procedures; and practices to control ~~plant~~ site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. (3-24-22)( )

10. **Biochemical Oxygen Demand (BOD).** ~~The measure of the amount of oxygen necessary to satisfy the biochemical oxidation requirements of organic materials at the time the sample is collected; unless otherwise specified, this term will mean the five (5) day BOD incubated at twenty (20) degrees C. As defined in IDAPA 58.01.16.~~ (3-24-22)( )

11. **Biological Monitoring or Biomonitoring.** ~~The use of a biological entity as a detector and its response as a measure to determine environmental conditions. Toxicity tests and biological surveys, including habitat monitoring, are common biomonitoring methods. As defined in IDAPA 58.01.02.~~ (3-24-22)( )

12. **Bypass.** The intentional diversion of wastewater from any portion of a treatment facility. ( )

13. **Chemical Oxygen Demand (COD).** A bulk parameter that measures the oxygen-consuming capacity of organic and inorganic matter present in water or wastewater. ~~It is,~~ expressed as the amount of oxygen consumed from a chemical oxidant in a specific test. (3-24-22)( )

14. **Class I Sludge Management Facility.** ~~Any~~ POTW, identified under 40 CFR 403.8(a), ~~as being~~ required to have an approved pretreatment program (including ~~such~~ POTWs where for which the Department has ~~elected to~~ assumed local program responsibilities pursuant to under 40 CFR 403.10(e) and any other treatment works treating domestic sewage (TWTDS) classified as a Class I sludge management facility by the Department, because of the potential for its sludge use or disposal practices to adversely affect public health and the environment. (3-24-22)( )

15. **Clean Water Act (CWA).** Formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972. Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483 and Public Law 97-117, 33 U.S.C. 1251 et seq. (3-24-22)( )

16. **Clean Water Act and Regulations.** ~~The Clean Water Act and applicable regulations promulgated thereunder. In the case of an approved IPDES program, it includes Department program requirements.~~ (3-24-22)

17. **Compliance Schedule or Schedule of Compliance.** A schedule of remedial measures included in a permit, including an enforceable sequence of interim requirements (for example e.g., actions, operations, or milestones events) leading to compliance with the Clean Water Act CWA and these rules. (3-24-22)( )



**187. Concentrated Animal Feeding Operation (CAFO).** ~~Animal feeding operation that is defined as a Large CAFO in accordance with 40 CFR 122.23(b)(4), as a Medium CAFO in accordance with 40 CFR 122.23(b)(6), or that is designated as a CAFO in accordance with 40 CFR 122.23(c). Two (2) or more animal feeding operations under common ownership are considered to be a single animal feeding operation for the purposes of determining the number of animals at an operation, if they adjoin each other or if they use a common area or system for the disposal of wastes.~~ As defined in 40 CFR 122.23. (3-24-22)( )

**198. Concentrated Aquatic Animal Production (CAAP).** ~~A hatchery, fish farm, or other facility which meets the criteria in Appendix C of 40 CFR Part 122, or which the Department designates under 40 CFR 122.24(c).~~ As defined in CFR 122.24 (3-24-22)( )

**2019. Continuous Discharge.** A discharge ~~which occurs~~ occurring without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities. (3-24-22)( )

**2120. Daily Discharge.** The discharge of a pollutant measured during a calendar day or any twenty-four (24)-hour period that reasonably represents the calendar day for ~~purposes of~~ sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with ~~limitations~~ expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant discharged over the day. (3-24-22)( )

**22. Department.** ~~The Idaho Department of Environmental Quality.~~ (3-24-22)

**2321. Design Flow.** The average or maximum point source discharge volume per unit time that a facility or system is constructed to accommodate. ( )

**242. Direct Discharge.** The discharge of a pollutant to waters of the United States. ( )

**25. Director.** ~~The Director of the Idaho Department of Environmental Quality or authorized agent.~~ (3-24-22)

**263. Discharge Monitoring Report (DMR).** ~~The~~ A required facility or activity report containing monitoring and discharge quality and quantity information and data ~~required to be~~, submitted periodically, as defined in the discharge permit. These reports must be submitted to the Department ~~on a Department-~~ in an approved format. (3-24-22)( )

**274. Discharge.** When used without qualification means the discharge of a pollutant. ( )

**285. Discharge of a Pollutant.** Any addition of any pollutant or combination of pollutants to waters of the United States from any point source. This definition includes additions of pollutants into waters of the United States from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any indirect discharger. (3-24-22)( )

**296. Draft Permit.** A document prepared under these rules indicating the Department's tentative decision to issue or deny, modify, revoke and reissue, terminate, or reissue a permit. A notice of intent to terminate termination of a permit, and a notice of intent to deny a permit, as discussed in Subsections 107.01 and 203.02, are types of draft permits. ~~A d~~ Denial of a request for modification, revocation and reissuance, or termination, as discussed in Subsection 201.01, is not a draft permit. A proposed permit is not a draft permit. (3-24-22)( )

**3027. Effluent.** ~~Any d~~ Discharge of treated or untreated pollutants into waters of the United States. (3-24-22)( )

**3128. Effluent Limitation or Limit.** Any restriction imposed by the Department on quantities, discharge rates, and concentrations of pollutants ~~which that~~ are discharged from point sources into waters of the United States, in accordance with these rules and the ~~Clean Water Act~~ CWA. (3-24-22)( )

~~329.~~ **Effluent Limitations Guidelines (ELG).** A regulation published by ~~the~~ EPA under ~~the Clean Water Act section~~ CWA Section 304(b) to adopt or revise effluent limitations. (3-24-22)( )

~~330.~~ **Electronic Signature.** Information in digital form that is included in or associated with an electronic document ~~for the purpose of expressing that signifies~~ the same meaning and intention as ~~would~~ a handwritten signature. (3-24-22)( )

~~34.~~ **Environmental Protection Agency (EPA).** The United States Environmental Protection Agency. (3-24-22)

~~351.~~ **Equivalent Dwelling Unit (EDU).** A measure where one (1) EDU is equivalent to wastewater generated from one (1) single-family residence. For ~~the purposes of~~ assessing fees associated with publicly or privately owned domestic sewage treatment, the number of EDUs is calculated as the population served divided by the average household size as defined in the most recent US Census Bureau data (for that municipality, county, or average number of persons per household for the state of Idaho). For fees associated with industrial wastewater treatment owned by a municipality, EDUs are calculated ~~in accordance with~~ to the definition of EDU in IDAPA 58.01.16, ~~Section 010,~~ "Wastewater Rules." (3-24-22)( )

~~362.~~ **Existing Source.** Any source ~~which that~~ is not a new source or a new discharger. (3-24-22)( )

~~373.~~ **Facilities or Equipment.** Buildings, structures, process or production equipment or machinery ~~which that~~ form a permanent part of the new source and ~~which~~ will be used in its operation, if ~~these~~ facilities or equipment are of such value as to represent a substantial commitment to construct. It excludes facilities or equipment used in ~~connection with~~ feasibility, engineering, and design studies regarding the source or water pollution treatment for the source. (3-24-22)( )

~~384.~~ **Facility or Activity.** Any point source or ~~any~~ other facility or activity (including land or appurtenances ~~thereto~~) ~~that is subject to~~ regulation ed under the IPDES program. (3-24-22)( )

~~395.~~ **Fundamentally Different Factors.** The factors relating to a discharger's facilities, equipment, processes or other factors related to the discharger are fundamentally different from the factors considered by EPA in ~~development of~~ ing the national effluent limits. (3-24-22)( )

~~4036.~~ **General Permit.** An IPDES permit issued under Section 130 ~~(General Permits)~~ authorizing a category of discharges within a geographical area. (3-24-22)( )

~~4137.~~ **Hazardous Substance.** Any substance designated under 40 CFR Part 116 pursuant to ~~the Clean Water Act s~~ Section 311. (3-24-22)( )

~~4238.~~ **Idaho Pollutant Discharge Elimination System (IPDES).** Idaho's program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under these rules and ~~the Clean Water Act s~~ Sections 307, 402, 318, and 405. (3-24-22)( )

~~439.~~ **Indian Country.** ( )

a. All ~~l~~ and within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation; (3-24-22)( )

b. All ~~d~~ dependent Indian communities within the borders of the United States, whether within the originally or subsequently acquired territory thereof, and whether within or without the limits of the state; and (3-24-22)( )

c. All Indian allotments, the Indian titles to which have not been extinguished including rights-of-way running through the same. (3-24-22)( )

**440. Indian Tribe.** Any Indian tribe, band, group, or community recognized by the Secretary of the Interior and exercising governmental authority over a federal Indian reservation. ( )

**451. Indirect Discharger.** A nondomestic discharger introducing pollutants to a privately or publicly owned treatment works. ( )

~~**46. Industrial Wastewater.** Any waste, together with such water as is present that is the by product of industrial processes including, but not limited to, food processing or food washing wastewater (see Process Wastewater). (3-24-22)( )~~

**472. Infiltration.** Water other than wastewater that enters a sewer system (including sewer service connections and foundation drains) from the ground through sources such ~~means~~ as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow. (3-24-22)( )

**483. Inflow.** Water other than wastewater that enters a sewer system (including sewer service connections) from sources ~~such as~~ including, but not limited to, roof leaders, cellar drains, yard drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from, infiltration. (3-24-22)( )

**44. Integrated Planning.** A voluntary plan developed by the permittee in consultation and coordination with the Department. The plan will be based on USEPA 2012 policy guidance as further codified by the America's Water Infrastructure Act of 2018, Public law: 115-270. Integrated Plans may include wastewater discharges from POTWs, reclaimed or recycled water from municipalities, MS4 storm water, nonpoint source municipal storm water, and municipal owned geothermal water. An Integrated Plan may also incorporate other watershed activities undertaken by municipalities such as beneficial reuse of biosolids, stream and restoration activities, and aquatic and riparian improvements. ( )

**495. Interstate Agency.** An agency of two (2) or more states established by or under an agreement or compact, or any other agency of two (2) or more states having substantial powers or duties pertaining to the control of pollution. ( )

~~**50. Load Allocation (LA).** The portion of a receiving water body's loading capacity that is attributed either to one (1) of its existing or future nonpoint sources of pollution or to natural background sources. (3-24-22)~~

~~**5146. Major Facility.** A facility or activity that is: (3-24-22)( )~~

**a.** A publicly or privately owned treatment works with a design flow equal to or greater than one million gallons per day (1 MGD), or serves a population of ten thousand (10,000) or more, or causes significant water quality impacts; or ( )

**b.** A non-municipal facility that equals or exceeds the eighty (80) point accumulation ~~as~~ described in the Score Summary of the NPDES Non-Municipal Permit Rating Work Sheet (June 27, 1990) or the Department equivalent ~~guidance document~~. (3-24-22)( )

~~**5247. Maximum Daily Discharge Limitation.** The highest allowable daily discharge. ( )~~

~~**5348. Maximum Daily Flow.** The largest volume of flow to be discharged during a continuous twenty-four-hour period expressed as a volume per unit time. ( )~~

~~**549. Mixing Zone.** A defined area or volume of the receiving water surrounding or adjacent to a wastewater discharge where the receiving water, as a result of the discharge, may not meet all applicable water quality criteria or standards. It is considered a place where wastewater mixes with receiving water and not as a place where effluents are treated As defined in IDAPA 58.01.02. (3-24-22)( )~~

**550. Municipality.** A city, town, county, district, association, or other public body created by or under

state law ~~and having with~~ jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under ~~the Clean Water Act s~~Section 208. (3-24-22)( )

**561. National Pollutant Discharge Elimination System (NPDES).** The national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under ~~the Clean Water Act s~~Sections 307, 402, 318, and 405. (3-24-22)( )

- 572. New Discharger.** Any building, structure, facility, or installation ~~that:~~ (3-24-22)( )
- a. ~~From which there is~~Discharge or may ~~be a~~ discharge ~~of~~ pollutants; (3-24-22)( )
  - b. ~~That d~~Did not ~~commence the~~ discharge ~~of~~ pollutants at a particular site ~~prior to~~ before August 13, 1979; (3-24-22)( )
  - c. ~~Which i~~s not a new source; and (3-24-22)( )
  - d. ~~Which h~~Has never received an ~~finally~~ effective NPDES or IPDES permit for discharges at that site. (3-24-22)( )
  - e. This ~~definition~~ includes an indirect discharger which commences discharging into waters of the United States after August 13, 1979; ~~It also includes and~~ any existing mobile point source, such as an aggregate plant, that ~~begins~~ discharg~~ing~~es at a site for which it does not have a permit; (3-24-22)( )

**583. New Source.** Any building, structure, facility, or installation ~~from which there is or may be a that~~ discharges ~~or may discharge of~~ pollutants, ~~the and~~ construction ~~of which has~~ commenced: (3-24-22)( )

- a. After promulgation of ~~performance~~ standards ~~of performance~~ under ~~the Clean Water Act s~~Section 306 ~~which are~~ applicable to ~~such the~~ source; or (3-24-22)( )
- b. After proposal of ~~performance~~ standards ~~of performance in accordance with the under~~ Clean Water Act sSection 306 ~~which are~~ applicable to ~~such the~~ source, but only if the standards are promulgated ~~in accordance with section 306~~ within one hundred twenty (120) days of their proposal. (3-24-22)( )

**594. Notice of Intent to Deny.** A ~~type of~~ draft permit that ~~shall~~ convey~~s~~ to a permit applicant or permittee; the Department's intent to not issue or renew an IPDES permit. (3-24-22)( )

**6055. Notice of Intent to Obtain Coverage under an IPDES General Permit.** An applicant seeking discharge coverage under an IPDES general permit ~~shall~~ must submit a notice of intent to obtain coverage for discharges to waters of the United States under general permit classifications, including, but not limited to: (3-24-22)( )

- a. Storm Water Construction General Permit (CGP); ( )
- b. Multi-sector General Permit (MSGP) for Industrial Storm Water Requirements; ( )
- c. Municipal Separate Storm Sewer System (MS4) General Permit; ( )
- d. Concentrated Animal Feeding Operation (CAFO) General Permit; ( )
- e. Concentrated Aquatic Animal Production (CAAP) Facility General Permit; ( )
- f. Ground Water Remediation General Permit; ( )
- g. Suction Dredge General Permit; or ( )
- h. Pesticide General Permit (PGP). ( )

- 564.** Notice of ~~Intent to Terminate~~ion. A notice of ~~intent to terminate~~ion shall convey: (3-24-22)( )
- a. ~~Convey to~~To a permittee, the Department's intent to terminate an existing IPDES permit for cause; (3-24-22)( )
- or
- b. ~~Convey to~~To the Department a permittee's intent to terminate coverage for an activity under an ~~I~~individual or G general ~~P~~permit. A construction general permit holder ~~is obligated to~~ must submit a notice of ~~intent to terminate upon completion of~~ termination within 30 (thirty) days of completing construction activities and, ~~in the case of storm water control, that final stabilization has been achieved for storm water control.~~ (3-24-22)( )
- 6257.** **Owner or Operator.** The person, company, corporation, district, association, or other organizational entity that is an owner or operator of any facility or activity subject to regulation under the IPDES program. ( )
- 6358.** **Pesticide Discharges.** ~~The d~~Discharges that result from the application of biological pesticides, and the application of chemical pesticides that leave a residue, from point sources to waters of the United States. ~~In the context of this definition of pesticide discharges, t~~This does not include agricultural storm water discharges and return flows from irrigated agriculture, which that are excluded by law (33 U.S.C. 1342(l); 33 U.S.C. 1362(14)). (3-24-22)( )
- 6459.** **Pesticide Residue.** ~~For the purpose of~~ To determining ~~e~~whether an IPDES permit is needed for discharges to waters of the United States from pesticide application, ~~means that the~~ portion of a pesticide application that is discharged from a point source to waters of the United States and that no longer provides pesticidal benefits. It also includes any degradates ~~ion byproducts~~ of the pesticide. (3-24-22)( )
- 650.** **Permit.** The authorization, license, or equivalent control document issued by the Department to implement ~~the requirements of~~ these rules. This does not include ~~any permit which has not yet been the subject of final Department action, such as~~ a draft permit or a proposed permit. (3-24-22)( )
- 661.** **Person.** An individual, public or private corporation, partnership, association, firm, joint stock company, joint venture, trust, estate, state, municipality, commission, political subdivision of the state, state or federal agency, department or instrumentality, special district, interstate body or ~~any~~ legal entity, or an agent or employee thereof, ~~which is~~ recognized by law as the subject of rights and duties. (3-24-22)( )
- 672.** **Point Source.** ~~Any~~ discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft ~~from which that discharges or may discharge~~ pollutants ~~are or may be discharged~~. This ~~term~~ does not include return flows from irrigated agriculture or agricultural storm water runoff ~~that are excluded by law (33 U.S.C. 1342(l); 33 U.S.C. 1362(14)).~~ (3-24-22)( )
- 683.** **Pollutant.** Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. It does not mean: ( )
- a. Sewage from vessels; or ( )
- b. Water, gas, or other material ~~which is~~ injected into a well to facilitate production of oil or gas, or water ~~derived in association with~~ resulting from oil and gas production and disposed of in a well, if the well used ~~either to facilitate for~~ production or ~~for disposal purposes~~ is approved by authority of the state ~~in which where~~ the well is located, and if the state determines ~~that~~ the injection or disposal will not ~~result in the~~ degradation ~~of~~ ground or surface water resources.
- NOTE: Radioactive materials covered by the Atomic Energy Act are ~~those~~ encompassed in its definition of source, byproduct, or special nuclear materials. Examples of materials not covered include radium and accelerator-produced isotopes. See Train v. Colorado Public Interest Research Group, Inc., 426 U.S. 1 (1976). (3-24-22)( )

~~694.~~ **Potable Water.** ~~Water which is free from impurities in such amounts that it is safe for human consumption without treatment~~ As defined in IDAPA 58.01.16. (3-24-22)(    )

~~7065.~~ **Pretreatment.** ~~The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by 40 CFR 403.6(d). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 CFR 403.6(e)~~ As defined in 40 CFR 403.3. (3-24-22)(    )

~~7166.~~ **Primary Industry Category.** An industry category listed in Appendix A of 40 CFR Part 122. ( )

~~7267.~~ **Privately Owned Treatment Works.** ~~Any device or system which is used to treat wastes and is not a~~ Publicly Owned Treatment Works (POTW). (3-24-22)(    )

~~7368.~~ **Process Wastewater.** ~~Any w~~Water which that, during manufacturing or processing, comes into direct contact with or results from ~~the production~~ing or ~~using a of any~~ raw material, intermediate product, finished product, byproduct, or waste product ~~(see Industrial Wastewater definition).~~ (3-24-22)(    )

~~7469.~~ **Proposed Permit.** An IPDES permit prepared after the ~~close of the~~ public comment period closes (and, when applicable, any public meeting and administrative appeals) ~~which that~~ is sent to EPA for review before final issuance by the Department. A proposed permit is not a draft permit. (3-24-22)(    )

~~750.~~ **Proposed Settlement of a State Enforcement Action.** A Department consent order ~~or,~~ compliance agreement schedule, or compliance schedule order issued in response to a notice of violation that ~~is to~~ will be signed by the Director. This does not include amendments or extensions of consent orders ~~or,~~ compliance agreement schedules, or compliance schedule orders. (3-24-22)(    )

~~761.~~ **Publicly Owned Treatment Works (POTW).** ~~A treatment works as defined by the Clean Water Act section 212, which is owned by a state or municipality, as defined by the Clean Water Act section 502(4). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the municipality as defined in the Clean Water Act section 502(4), which has jurisdiction over the indirect discharges to and the discharges from such a treatment works~~ As defined in 40 CFR 403.3. (3-24-22)(    )

~~772.~~ **Receiving Waters.** ~~Those w~~Waters of the United States to which there is a discharge of pollutants. (3-24-22)(    )

~~783.~~ **Recommencing Discharger.** A source ~~which that~~ renews discharges after terminating operations. (3-24-22)(    )

~~794.~~ **Regional Administrator.** The Region 10 Administrator of the US Environmental Protection Agency or the authorized representative of the Regional Administrator. (3-24-22)(    )

~~8075.~~ **Secondary Industry Category.** Any industry category ~~which that~~ is not a primary industry category. (3-24-22)(    )

~~8176.~~ **Secondary Treatment.** Technology-based requirements for direct discharging POTWs, based on the expected performance of a combination of physical and biological processes typical for the treatment of pollutants in municipal sewage. Standards are ~~expressed as a the~~ minimum level of effluent quality ~~in terms of:~~ for BOD<sub>5</sub>, total suspended solids (TSS), and pH (except ~~as provided by~~ for treatment equivalent to secondary treatment and other

special considerations). (3-24-22)( )

**8277.** Secretary. ~~The~~ Secretary of the Army, acting through the Chief of Engineers. (3-24-22)( )

**8378.** Septage. ~~The~~ Liquid and solid material pumped from a septic tank, cesspool, or similar domestic sewage treatment system, or a holding tank when the system is cleaned or maintained. (3-24-22)( )

**8479.** Severe Property Damage. Substantial physical damage to property, damage to the treatment facilities ~~which~~ causes ing them to become inoperable, or substantial and permanent loss of natural resources ~~which that~~ can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production. (3-24-22)( )

**850.** Sewage. ~~The water carried human or animal waste from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present~~ As defined in IDAPA 58.01.16. (3-24-22)( )

**861.** Sewage from Vessels. Human body wastes and ~~the~~ wastes from toilets and other receptacles intended to receive or retain body wastes that are discharged from vessels and regulated under ~~the Clean Water Act~~ sSection 312. (3-24-22)( )

**872.** Sewage Sludge. ~~Any~~ Solid, semi-solid, or liquid residue removed during ~~the treatment of~~ municipal wastewater or domestic sewage treatment. Sewage sludge includes, but is not limited to, solids removed during primary, secondary, or advanced wastewater treatment; scum; septage; portable toilet pumpings; type III marine sanitation device pumpings (33 CFR Part 159); and sewage sludge products. Sewage sludge does not include grit or screenings, or ash generated during ~~the incineration of~~ sewage sludge incineration. (3-24-22)( )

**883.** Sewage Sludge Use or Disposal Practice. The collection, storage, treatment, transportation, processing, monitoring, use, or disposal of sewage sludge. ( )

**894.** Significant Industrial User. (3-24-22)

**a.** ~~All~~ Industrial users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Parts 400 through 471; and (3-24-22)

**b.** ~~A~~ any other industrial user that: (3-24-22)( )

**ia.** Discharge an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater); ( )

**ib.** Contributes a process waste stream ~~which that~~ makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or (3-24-22)( )

**ic.** Is designated ~~as such~~ by the Control Authority ~~on the basis that the industrial user has a~~ based on reasonable potential ~~for to~~ adversely affecting the POTW's operation or ~~for violating any~~ violate a Pretreatment Standard or requirement (in accordance with 40 CFR 403.8(f)(6)). (3-24-22)( )

**9085.** Silvicultural Point Source. ~~Any discernible, confined, and discrete conveyance related to rock crushing, gravel washing, log sorting, or log storage facilities which are operated in connection with silvicultural activities and from which pollutants are discharged into waters of the United States. The term does not include non-point source silvicultural activities such as nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning, prescribed burning, pest and fire control, harvesting operations, surface drainage, or road construction and maintenance from which there is natural runoff. However, some of these activities (such as stream crossing for roads) may involve point source discharges of dredged or fill material which may require a Clean Water Act section 404 permit~~ As defined in 40 CFR 122.27. (3-24-22)( )

**9186.** Site. ~~The~~ Land or water area where any facility or activity is physically located or conducted, including adjacent land used ~~in connection~~ with the facility or activity. (3-24-22)( )

- ~~92. Sludge. The semi liquid mass produced and removed by the wastewater treatment process. (3-24-22)~~
- ~~9387. Sludge-Only Facility. Any TWTDS whose methods of sewage sludge use or disposal are is subject to regulations promulgated pursuant to the under Clean Water Act sSection 405(d) and is required to obtain an IPDES permit. (3-24-22)( )~~
- ~~9488. Source. Any building, structure, facility, or installation from which there is that discharges or may be discharge of pollutants. (3-24-22)( )~~
- ~~895. Standards for Sewage Sludge Use or Disposal. Regulations promulgated pursuant to the under Clean Water Act sSection 405(d) and these rules which govern minimum requirements for sewage sludge quality, management practices, and monitoring and reporting applicable to sewage sludge or the use or disposal of sewage sludge by any person. (3-24-22)( )~~
- ~~96. State. The state of Idaho. (3-24-22)~~
- ~~97. State/EPA Agreement. An agreement between the EPA Regional Administrator and the state of Idaho which coordinates EPA and Department activities, responsibilities and programs including those under the Clean Water Act programs. (3-24-22)~~
- ~~980. Storm Water. Storm water runoff, snow melt runoff, and surface runoff and drainage. ( )~~
- ~~991. Technology-Based Effluent Limitation (TBEL). Treatment requirements under the Clean Water Act that represent the minimum level of control that must to be imposed in a permit issued under CWA sSection 402 of the Clean Water Act. (3-24-22)( )~~
- ~~10092. Total Dissolved Solids. The tTotal dissolved (filterable) solids as determined by use of the method specified in 40 CFR Part 136. (3-24-22)( )~~
- ~~10193. Toxic Pollutant. Any substance, material or disease-causing agent, or a combination thereof, which that after discharge to waters of the United States and upon exposure, ingestion, inhalation, or assimilation into any organism (including humans), either directly from the environment or indirectly by ingestion through food chains, will cause death, disease, behavioral abnormalities, malignancy, genetic mutation, physiological abnormalities (including reproductive malfunctions in reproduction) or physical deformations in affected organisms or their offspring. Toxic pollutants include, but are not limited to, the one hundred twenty-six (126) priority pollutants identified by EPA pursuant to the under Clean Water Act sSection 307(a), or in the case of, for sewage sludge use or disposal practices, any pollutant identified in regulations implementing the Clean Water Act sSection 405(d). (3-24-22)( )~~
- ~~10294. Treatment. A process or activity conducted for the purpose of removing pollutants from wastewater As defined in IDAPA 58.01.16. (3-24-22)( )~~
- ~~103. Treatment Facility. Any physical facility or land area for the purpose of collecting, treating, neutralizing, or stabilizing pollutants including treatment plants; the necessary collecting, intercepting, outfall and outlet sewers; pumping stations integral to such plants or sewers; disposal or reuse facilities; equipment and furnishing thereof; and their appurtenances. For the purpose of these rules, a treatment facility may also be known as a treatment system, a wastewater system, wastewater treatment system, wastewater treatment facility, wastewater treatment plant, or privately or publicly owned treatment works. (3-24-22)~~
- ~~10495. Treatment Works Treating Domestic Sewage (TWTDS). A POTW or any other sewage sludge or waste water treatment devices or systems, regardless of ownership (including federal facilities), used in the storageing, treatmenting, recycling, and reclamationing of municipal or domestic sewage, including land dedicated for the disposal of sewage sludge disposal. This definition does not include septic tanks or similar devices. For purposes of this definition, dDomestic sewage includes waste and waste water from humans or household operations that are discharged to or otherwise enter a treatment works. (3-24-22)( )~~



**10596. Upset.** An exceptional incident resulting in ~~which there is~~ unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance ~~to the extent~~ caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation. (3-24-22)( )

**10697. User.** A person served by a wastewater system. ( )

**10798. Variance.** ~~Any~~ mechanism or provision under ~~the Clean Water Act s~~Section 301 or 316 ~~or under~~, 40 CFR Part 125, or in the ~~applicable effluent limitations guidelines~~ ELGs allowing modification to or waiver of the ~~generally applicable~~ effluent limitation requirements or time deadlines of the ~~Clean Water Act~~. This includes provisions ~~which~~ allowing the establishment of alternative limitations based on fundamentally different factors or on ~~Clean Water Act s~~Sections 301(c), 301(g), 301(h), 301(i), or 316(a). (3-24-22)( )

**10899. Wasteload Allocation (WLA).** The portion of a receiving water's loading capacity ~~that is~~ allocated to one (1) of its existing or future point sources of pollution. (3-24-22)( )

**1090. Wastewater.** ~~Any combination of liquid or water and pollutants from activities and processes occurring in dwellings, commercial buildings, industrial plants, institutions and other establishments, together with any ground water, surface water, and storm water that may be present; liquid or water that is chemically, biologically, physically or rationally identifiable as containing blackwater, gray water or commercial or industrial pollutants; and sewage~~ As defined in IDAPA 58.01.16. (3-24-22)( )

**1101. Water Pollution.** ~~Any~~ alteration of the physical, thermal, chemical, biological, or radioactive properties of ~~any~~ waters of the United States, or the discharge of ~~any~~ pollutant into the waters of the United States, ~~which that~~ will or is likely to create a nuisance or to render ~~such~~ waters harmful, detrimental, or injurious to public health, safety, or welfare, or to fish and wildlife, or to domestic, commercial, industrial, recreational, aesthetic, or other beneficial uses. (3-24-22)( )

**11102. Water Quality-Based Effluent Limitation (WQBEL).** An effluent limitation determined by selecting the most stringent of the effluent limits calculated using all applicable water quality criteria (e.g., aquatic life, human health, wildlife, translation of narrative criteria) for a specific point source to a specific receiving water. (3-24-22)( )

**11203. Water Transfer.** An activity that conveys or connects waters of the United States without subjecting the transferred water to intervening industrial, municipal, or commercial use. ( )

**11304. Wetlands.** Areas inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. (3-24-22)( )

**11405. Whole Effluent Toxicity (WET).** The aggregate toxic effect of ~~an~~ effluent measured directly by a toxicity test. (3-24-22)( )

011. -- 049. (RESERVED)

## 050. COMPUTATION OF TIME.

01. **Computing Time.** ~~In~~ When computing ~~any~~ period of time scheduled to begin after or before ~~the occurrence of~~ an act or event occurs, the date of the act or event is not included. The last day of the period is included, unless it is a Saturday, ~~a~~ Sunday, or ~~a~~ legal holiday, in which case the period runs until the end of the next day which is neither a Saturday, ~~a~~ Sunday, ~~nor~~ holiday. The section does not apply to submission deadlines for twenty-four (24) hour reporting, permit applications, or notices of intent for coverage under a general permit (3-24-22)( )

02. **Notice by Mail.** When ever a party or interested person has the right or is required to act within a

prescribed period after the service of notice or other paper and the notice or paper is served ~~upon him or her~~ by mail, three (3) days will be added to the prescribed time. (3-24-22)( )

051. -- 089. (RESERVED)

090. SIGNATURE REQUIREMENTS.

01. Permit Applications and Notices of Intent. ~~All~~ IPDES permit applications and notices of intent must be signed by a certifying official as follows: (3-24-22)( )

a. For a corporation, a responsible corporate officer ~~shall~~ must sign the application or notice of intent. In this subsection, a responsible corporate officer means: (3-24-22)( )

i. ~~A p~~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 (3-24-22)( )

ii. ~~The m~~Manager of one (1) or more manufacturing, production, or operating facilities ~~or sites~~, if ~~the manager~~: (3-24-22)( )

(1) ~~The manager i~~s authorized to make management decisions that govern the operation of the regulated facility, including ~~having~~ the explicit or implicit duty of ~~making recommending~~ major capital investments ~~recommendations~~, and initiating and directing other comprehensive measures to ~~as~~ensure long-term environmental compliance with environmental statutes and regulations; (3-24-22)( )

(2) ~~The manager can e~~Ensures ~~that~~ the necessary systems are established or actions taken to gather complete and accurate information for IPDES permit application requirements; and (3-24-22)( )

(3) ~~Authority~~Has been assigned or delegated authority to sign documents ~~has been assigned or delegated to the manager in accordance with~~ following corporate procedures; (3-24-22)( )

b. For a partnership or sole proprietorship, the general partner or ~~the~~ proprietor, respectively, ~~shall~~ signs the application; and (3-24-22)( )

c. For a municipality, state, or other public agency, either a principal executive officer or ranking elected official ~~shall~~ must sign the application. In this subsection, a principal executive officer of an agency means: (3-24-22)( )

i. ~~The e~~Chief executive officer of the agency; or (3-24-22)( )

ii. ~~A s~~Senior executive officer ~~having responsibility~~ responsible for the overall operations of a principal geographic unit or ~~division of the~~ agency division. (3-24-22)( )

02. Reports and Other Information Submitted. ~~Any~~ report or information required by an IPDES permit, notice of intent, monitoring and reporting provisions, and ~~any~~ other information requested by the Department, must be signed by a person described in Subsection 090.01, or by a duly authorized representative of that person. A person is a duly authorized representative only if: (3-24-22)( )

a. ~~The a~~Authorization is made in writing by a person described in Subsection 090.01; (3-24-22)( )

b. ~~The a~~Authorization specifies either: (3-24-22)( )

i. An individual or a position ~~having responsibility~~ responsible for the overall operation of the regulated facility or activity, including ~~the position of a~~ manager, operator, superintendent, or position of equivalent responsibility; or (3-24-22)( )

ii. An individual or position ~~having overall responsibility~~ responsible for overall environmental matters for the company; and (3-24-22)( )

c. The written authorization is submitted to the Department. ( )

**03. New Authorization.** If an authorization is no longer accurate due to a change in staffing or personnel for the overall operation of the facility, a new authorization satisfying the requirements of Subsection 090.01 must be submitted to the Department before ~~or together~~ with any report, information, or application to be signed by an authorized representative. (3-24-22)( )

**04. Certification.** Any person signing a document under Subsections 090.01 or 090.02 ~~shall~~ must certify as follows: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations." (3-24-22)( )

**05. Electronic Signatures.** The Department may require ~~any~~ signed, certified, or authorized information ~~required under these rules~~ to be submitted electronically, with an electronic signature approved by the Department. (3-24-22)( )

**06. Electronic Reporting.** When documents described in Subsection 090.01 or 090.02 ~~of this rule~~ are submitted electronically by or on behalf of the IPDES-regulated facility, ~~any~~ persons providing the electronic signature ~~for such documents shall~~ must meet all the relevant requirements of this section, and ~~shall~~ ensure ~~that all of~~ the relevant requirements of 40 CFR Part 3 (Cross-Media Electronic Reporting) and 40 CFR Part 127 (NPDES Electronic Reporting Requirements) are met for that submission. (3-24-22)( )

091. -- 099. (RESERVED)

## 100. EFFECT OF A PERMIT.

**01. Rights.** The issuance of, or coverage under, an IPDES permit does not convey ~~any~~ property rights or ~~any~~ exclusive privilege nor does it authorize ~~any~~ injury to persons or property or invasion of other private rights, or ~~any~~ infringement of state or local law or regulations. ~~The issuance of, or coverage under, an IPDES permit~~ It does not constitute authorization of the permitted activities by ~~any~~ an other state or federal agency or private person or entity, and does not excuse the permit holder from the obligation to obtain ~~any~~ other necessary approvals, authorizations, or permits. (3-24-22)( )

**02. Compliance.** Except for ~~any~~ toxic effluent standards and prohibitions imposed under ~~the Clean Water Act section~~ CWA Section 307, and standards for sewage sludge use or disposal under ~~the Clean Water Act section~~ CWA Section 405(d), compliance with an IPDES permit during its term constitutes compliance, for ~~purposes of enforcement, with Clean Water Act sections~~ CWA Sections 301, 302, 306, 307, 318, 403, and 405(a) through (b). ~~However, a~~ A permit or coverage under a permit may be modified, revoked and reissued, or terminated during its term for cause as ~~set out~~ established in Sections 130 (General Permits), 201 (Modification, or Revocation and Reissuance of IPDES Permits), and 203 (Termination of IPDES Permits). (3-24-22)( )

## 101. DURATION.

**01. Permit Term.** IPDES permits ~~shall~~ will be issued for a ~~fixed~~ duration ~~not to exceed of~~ five (5) years or less. (3-24-22)( )

a. The Department may issue a permit for ~~a period of~~ less than five (5) years. ~~An explanation of~~ The reasoning behind issuing a permit for a shorter period ~~shall~~ will be provided in the fact sheet. (3-24-22)( )

b. The duration of a permit may not be modified to lengthen the effective term of the permit past the maximum five (5) year duration. ( )

c. A permit may be issued to expire on or after the statutory deadline ~~set forth in the Clean Water Act sections established in CWA Sections~~ 301(b)(2)(A), (C), and (E), if the permit includes effluent ~~limitations to meet the requirements of the Clean Water Act sections~~ limits required by CWA Sections 301(b)(2)(A), (C), (D), (E) and (F), whether or not ~~applicable effluent limitations guidelines~~ ELGs have been promulgated or approved. (3-24-22)( )

d. A determination that a particular discharger falls within a given industrial category for ~~purposes of~~ setting a permit expiration date under Subsection 101.01.c. is not conclusive as to the discharger's inclusion in that industrial category for any other purposes, and does not prejudice any rights to challenge or change that inclusion at the time that a permit based on that determination is formulated. (3-24-22)( )

e. A federally-issued NPDES permit, ~~the administration of which has been~~ transferred to the Department ~~upon or to administer~~ after EPA approval of the IPDES program, ~~shall~~ continue in effect and ~~be i-es~~ enforceable by the Department, subject to Subsections 101.02 and 101.03. (3-24-22)( )

**02. Continuation of Individual Permits.** The conditions of an expired individual ~~permit, whether a~~ federal NPDES permit (except for permits ~~over which~~ under EPA ~~retains~~ authority) or a state-issued IPDES permit, will remain fully effective and enforceable until the effective date of a new permit or the date of the Department's final decision to deny the application for the new permit, if: (3-24-22)( )

a. The permittee ~~has~~ submitted a timely and complete application for a new permit under Section 105 (~~Application for an Individual IPDES Permit~~); and (3-24-22)( )

b. The Department, because of time, resources, or other constraints, but through no fault of the permittee, does not issue a new permit with an effective date on or before the expiration date of the previous permit. (3-24-22)( )

**03. Continuation of General Permits.** The conditions of an expired general ~~permit, whether a federal~~ NPDES permit or a state-issued IPDES permit, will remain fully effective and enforceable (except for permits ~~over which~~ under EPA ~~retains~~ authority) until the date the authorization to discharge under the new permit is determined, if: (3-24-22)( )

a. The permittee ~~has~~ submitted a timely notice of intent to obtain coverage under the new general permit as specified in Section 130 (~~General Permits~~); and (3-24-22)( )

b. The Department, because of time, resources, or other constraints, but through no fault of the permittee, does not issue a new general permit with an effective date on or before the expiration date of the previous permit. (3-24-22)( )

**04. Continuation of Permits During an Appeal.** Whether the conditions of an expired permit remain effective and enforceable during an appeal of a new permit, or an appeal of the denial of a permit application, is governed by Section 204 (~~Appeals Process~~). (3-24-22)( )

## 102. OBLIGATION TO OBTAIN AN IPDES PERMIT.

**01. Persons Who Must Obtain a Permit.** Any person who discharges or proposes to discharge a pollutant from any point source into waters of the United States, or who owns or operates a sludge-only facility whose sewage sludge use or disposal practice is regulated by 40 CFR Part 503 or these rules, and who does not have an IPDES or NPDES permit in effect, ~~shall~~ must submit a complete IPDES permit application to the Department, unless the discharge, proposed discharge, or TWTDS is: (3-24-22)( )

a. Is ecovered by one (1) or more general permits in compliance with Section 130 (~~General Permits~~). Any applicant must complete a notice of intent for any discharge or proposed discharge ~~that is~~ covered by one (1) or more general permits; (3-24-22)( )

b. Is excluded from IPDES permit requirements under Subsection 102.05; (3-24-22)( )

c. ~~Is a~~<sup>B</sup> By a user to a privately owned treatment works, and the Department, under Section 370 (Pretreatment Standards), does not otherwise require the person to apply for a permit; or (3-24-22)( )

d. ~~Is a~~<sup>A</sup> TWTDS facility that uses or disposes of sewage sludge ~~to which~~<sup>where</sup> a standard applicable to its sewage sludge use or disposal practices ~~have~~<sup>s</sup> not been published. ~~Such~~<sup>These</sup> facilities ~~shall~~<sup>must</sup> submit limited background information, as specified in Subsection 105.17.o., within one (1) year after publication of applicable standards. (3-24-22)( )

**02. Operator's Duty to Obtain a Permit.** When a facility or activity is owned by one person but is operated by another person, it is the operator's duty to obtain a permit. ( )

**03. Permits Under ~~the Clean Water Act Section CWA~~ 405(f).** ~~All n~~<sup>New</sup> and currently permitted TWTDS whose sewage sludge use or disposal practices are regulated by 40 CFR Part 503 must submit permit applications according to the ~~applicable~~ schedule in Subsection 105.17. The Department may require permit applications from ~~any~~ TWTDS at any time if the Department determines that a permit is necessary to protect public health and the environment from ~~any~~ potential adverse effects that may occur from toxic pollutants in sewage sludge. (3-24-22)( )

**04. Designation of Small Municipal Separate Storm Sewer Systems (MS4s).** DEQ ~~shall~~<sup>will</sup> designate a small MS4 that is not located in an urbanized area, as determined by the latest ~~D~~<sup>U</sup>ecennial ~~C~~<sup>U</sup>ensus by the ~~US Census Bureau of Census~~, as a regulated small MS4 that must be covered by an IPDES permit if the Department determines that ~~the storm water discharge~~; (3-24-22)( )

a. ~~The storm water discharge r~~<sup>R</sup>esults in or has the potential to result in exceedance of water quality standards or other significant water quality impacts; or (3-24-22)( )

b. ~~The storm water discharge e~~<sup>C</sup>ontributes substantially to the pollutant loadings of a physically interconnected ~~municipal separate storm sewer~~<sup>MS4</sup> that is regulated by the IPDES storm water program. (3-24-22)( )

**05. Exclusions from Permit.** A person ~~shall~~<sup>must</sup> not discharge pollutants from ~~any~~ point source into waters of the United States without first obtaining an IPDES permit from the Department or coverage under an IPDES general permit, unless the discharge is excluded from IPDES permit requirements or the discharge is authorized by an IPDES or NPDES permit that continues in effect. The Department will not require persons to obtain IPDES permits for facilities or activities that are not required to obtain NPDES permits from EPA under the ~~Clean Water Act and federal Clean Water Act~~<sup>CWA and CWA</sup> regulations. Discharges excluded from IPDES permit requirements, but that may be regulated by other state or federal regulations include: (3-24-22)( )

a. ~~Any s~~<sup>S</sup>ewage discharge from vessels and ~~any~~ effluent from properly functioning marine engines, laundry, shower and galley sink wastes, or ~~any~~ other discharge incidental to the normal operation of a vessel of the U.S. Armed Forces ~~within the meaning of the Clean Water Act section~~<sup>under CWA Section</sup> 312, and a recreational vessel ~~within the meaning of the Clean Water Act section~~<sup>under CWA Section</sup> 502(25). None of these exclusions apply to: (3-24-22)( )

i. Rubbish, trash, garbage, or other ~~such~~ materials discharged overboard; nor to (3-24-22)( )

ii. ~~Other d~~<sup>D</sup>ischarges when the vessel is operating in a capacity other than as a means of transportation such as ~~when used as~~; (3-24-22)( )

(1) An energy or mining facility; ( )

(2) A storage facility, or when secured to a storage facility; or ( )

(3) When secured to the bed of the waters of the United States for ~~the purposes of~~ mineral or oil exploration or development; (3-24-22)( )

b. ~~Any~~ discharge of dredged or fill material into waters of the United States ~~that is~~ regulated under ~~the Clean Water Act section~~ CWA Section 404; (3-24-22)( )

c. Sewage, industrial wastes, or other pollutants discharged into publicly owned treatment works (POTWs) by an indirect discharger who has received a will-serve letter authorizing the discharge to the POTW. Plans or agreements to switch to this method of disposal in the future do not relieve dischargers of the obligation to have and comply with permits until all discharges of pollutants to waters of the United States are eliminated. This exclusion does not apply to ~~the introduction of~~ introducing pollutants to privately owned treatment works or to other discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other party not leading to treatment works; (3-24-22)( )

d. ~~Any~~ discharge in compliance with the instructions of an on-scene coordinator under 40 CFR Part 300 (The National Oil and Hazardous Substances Pollution Contingency Plan), or 33 CFR 153.10(e) (Control of Pollution by Oil and Hazardous Substances, Discharge Removal); (3-24-22)( )

e. ~~Any~~ introduction of pollutants from non-point source agricultural and silvicultural activities, including storm water runoff from orchards, cultivated crops, pastures, range lands, and forest lands; however, this exclusion does not apply to discharges from concentrated animal feeding operations (CAFO) as defined in 40 CFR 122.23, discharges from concentrated aquatic animal production (CAAP) facilities, discharges to aquaculture projects, and discharges from silvicultural point sources; (3-24-22)( )

f. ~~Any~~ return flow from irrigated agriculture; (3-24-22)( )

g. Discharges into a privately owned treatment works, except as the Department may otherwise require under Subsection 302.15; and ( )

h. Discharges from a water transfer. This exclusion does not apply to pollutants introduced by the water transfer activity ~~itself~~ to the transferred water ~~being transferred~~. (3-24-22)( )

### 103. PERMIT PROHIBITIONS.

The Department will not issue an IPDES permit for a discharge: ( )

01. ~~Clean Water Act~~ CWA Compliance. Unless the conditions of the permit provide for compliance with the ~~applicable~~ requirements of IDAPA 58.01.02, "Water Quality Standards" and 58.01.25 "Rules Regulating the Idaho Pollutant Discharge Elimination System Program Rules"; (3-24-22)( )

02. **EPA Objection**. When the Department has received written objection ~~pursuant to~~ under 40 CFR 123.44 from the EPA Regional Administrator ~~to issuance of the permit~~ and until the objections are resolved according to the process identified in the Memorandum of Agreement between EPA and the Department; (3-24-22)( )

03. **Water Quality Requirements**. When the imposition of conditions cannot ensure compliance with the applicable water quality requirements of all affected states; ( )

04. **Anchorage and Navigation Impaired**. When, in the judgment of the Secretary of the United States Army through the Army Corp Chief of Engineers, anchorage and navigation in or on ~~any of~~ the waters of the United States ~~would~~ will be substantially impaired by the discharge; (3-24-22)( )

05. **Banned Content**. Of any radiological, chemical, or biological warfare agent or high level radioactive waste; ( )

06. **Area Wide Waste Treatment Management Plans**. That is inconsistent with a plan or plan amendment approved under ~~the Clean Water Act section~~ CWA Section 208(b); or (3-24-22)( )

07. **New Sources or New Dischargers**. For a new source or new discharger, if the discharge from its construction or operation will cause or contribute to the violation of water quality standards. ( )

a. When the owner or operator of a new source or new discharge proposes to discharge into a water

segment that does not meet ~~applicable~~ water quality standards, or that is not expected to meet those standards even after ~~the application of~~ applying the effluent limitations required by ~~Clean Water Act sections~~ CWA Sections 301(b)(1)(A) and (B), and for which the state or interstate agency has performed a pollutant load allocation for the pollutant to be discharged, then the owner or operator must demonstrate ~~that~~: (3-24-22)( )

- i. ~~There are s~~ufficient remaining pollutant load allocations exist to allow for the discharge; and (3-24-22)( )
- ii. The existing dischargers into ~~that~~ segment are subject to compliance schedules ~~designed to that~~ bring the segment into compliance with ~~applicable~~ water quality standards. (3-24-22)( )
- b. The Department may waive the submission of ~~the~~ information by the permit applicant required in Subsection 103.07.a. if the Department determines ~~that it already has~~ adequate information exists to evaluate the request. (3-24-22)( )
- c. ~~An explanation of t~~he development of limitation to meet the criteria of this section is ~~to be included~~ explained in the fact sheet to the permit. (3-24-22)( )

#### 104. PRE-APPLICATION PROCESS.

~~Any~~ person who intends to apply for a permit or who proposes to discharge a pollutant into the waters of the United States ~~should~~ may contact the Department to schedule a meeting ~~prior to submitting to discuss~~ an application ~~to discuss before submittal~~: (3-24-22)( )

01. **IPDES Permit Applicability.** Whether the actions or facility will require an IPDES permit, and whether other suitable permitting options are available; (3-24-22)( )
02. **Application Content.** The IPDES permit application requirements; and ( )
03. **Application Schedule.** The IPDES permit application submittal schedule. ( )

#### 105. ~~APPLICATION FOR AN INDIVIDUAL IPDES PERMIT~~ APPLICATIONS.

01. **Electronic Submittals.** The Department may require an applicant to electronically submit information required by this section, ~~if the Department approves~~ using an approved electronic method ~~of submittal~~. (3-24-22)( )

02. **Application Retention Schedule.** An applicant must keep records of all data used to complete a permit application and ~~any~~ supplemental information submitted for ~~a period of~~ at least three (3) years from the date the application is signed. (3-24-22)( )

03. **Time to Apply.** ~~Any~~ person required under Subsections 102.01 through 102.03 to obtain an IPDES permit must submit a complete application for a permit to the Department ~~a complete application for a permit in compliance with following~~ the requirements of this subsection. A permit application must be signed and certified as required by Section 090 (~~Signature Requirements~~). (3-24-22)( )

a. A person proposing a new discharge must ~~submit an application~~ apply at least one hundred eighty (180) days before ~~the date on which~~ the discharge ~~is to will~~ commence, unless the Department ~~has granted~~s permission to submit the application on a later date as specified in Subsections 105.03.e. and f. A facility proposing a new storm water discharge ~~of storm water associated with~~ from an industrial activity must ~~submit an application~~ apply one hundred eighty (180) days before that facility commences ~~industrial~~ activity that may result in a discharge of storm water ~~associated with that industrial activity~~, unless the Department ~~has granted~~s permission to submit the application on a later date as specified in Subsections 105.03.e. and f. (3-24-22)( )

b. Facilities described under 40 CFR 122.26(b)(14)(x) or (b)(15)(i) must ~~submit an application~~ apply at least ninety (90) days before ~~the date on which~~ construction ~~is to~~ commences unless otherwise required by ~~the terms of an applicable~~ the general permit. (3-24-22)( )

c. Any TWTDS that commences operations after promulgation of ~~any applicable~~ “standard for sewage sludge use or disposal” must ~~submit an application~~ apply to the Department at least one hundred eighty (180) days ~~prior to the date~~ before commencing proposed ~~for commencing~~ operations. (3-24-22)(    )

d. A person discharging from a permitted facility with ~~an currently~~ effective permit must ~~submit a new application~~ reapply at least one hundred eighty (180) days before the expiration ~~date~~ of the existing permit, unless the Department ~~has granted~~ s permission to submit the application on a later date as specified in Subsections 105.03.e. and f. (3-24-22)(    )

e. ~~Permission may be granted by~~ The Department ~~for submission of an application~~ may grant permission to apply in less than one hundred eighty (180) days. The Department’s prior approval must be ~~sought and obtained in advance of the~~ at least one hundred eighty (180) days before ~~expiration of~~ the existing permit ~~expires or commencement of~~ new discharge commences. (3-24-22)(    )

f. The application will not be accepted as an application for permit renewal after ~~the permit~~ expiration ~~date of the existing permit as an application for renewal of the permit~~. ~~Any a~~ Applications received after the permit expiration ~~of the permit~~ will be ~~received and~~ reviewed as an application for a new source or new discharger. (3-24-22)(    )

**04. Individual Permit Application Forms.** An applicant must ~~submit an application on~~ use one (1) or more Department-approved forms appropriate to the number and type of discharge or outfall at the applicant’s facility. A person required by Subsections 102.01 through 102.03 to obtain an individual IPDES permit must submit an application to the Department providing the information required by this subsection and Subsections 105.05 through 105.19, ~~as applicable. The application must be submitted on one (1) or more of the EPA forms listed in this subsection, or on the Department equivalent of the listed EPA form:~~ (3-24-22)(    )

a. ~~All a~~ Applicants, other than a POTW, TWTDS, and pesticide applicators (~~see~~ Subsection 105.06), EPA Form 1 equivalent and the following ~~additional~~ forms, if applicable: (3-24-22)(    )

i. ~~Applicants for a concentrated animal feeding operation (CAFO; see (Subsection 105.09) or concentrated aquatic animal production (CAAP; see (Subsection 105.10) facility,~~ EPA Form 2B equivalent; (3-24-22)(    )

ii. ~~Applicants for an e~~ Existing industrial facility, including manufacturing facilities, commercial facilities, mining activities, and silviculture activities (~~see~~ Subsection 105.07), EPA Form 2C equivalent; (3-24-22)(    )

iii. ~~Applicants for a n~~ New industrial facility that discharges process wastewater (~~see~~ Subsection 105.16), EPA Form 2D equivalent; (3-24-22)(    )

iv. ~~Applicants for a n~~ New or existing industrial facility that discharges only non-process wastewater (~~see~~ Subsection 105.08.a.), EPA Form 2E equivalent; (3-24-22)(    )

v. ~~Applicants for a n~~ New or existing facility ~~whose with~~ discharge ~~is~~ composed entirely of storm water ~~associated with~~ from industrial activity (~~see~~ Subsection 105.19), EPA Form 2F equivalent unless the applicant is exempted by 40 CFR 122.26(c)(1)(ii). If the applicant’s discharge is composed of storm water and non-storm water (~~see~~ Subsections 105.07, 105.08, and 105.16), EPA Forms 2C, 2D, or 2E, ~~as appropriate,~~ equivalent are also required; or (3-24-22)(    )

vi. ~~Applicants that e~~ Operate ing a sludge-only facility (~~see~~ Subsection 105.17), that currently does not have and is not applying for, an IPDES permit for a direct discharge to a surface water body, EPA Form 2S equivalent; (3-24-22)(    )

b. ~~For an a~~ Applicant ~~that~~ is a new or existing POTW or privately owned treatment works (~~see~~ Subsections 105.11 through 105.15): (3-24-22)(    )



- i. EPA Form 2A equivalent; and (3-24-22)( )
- ii. EPA Form 2S equivalent, if applicable. (3-24-22)( )

**05. Application Information for All Dischargers.** In addition to the application information required for specific dischargers, the Department may require the submission of any following information ~~necessary to ensure compliance to comply~~ with Section 103 ~~(Permit Prohibitions). Such information includes, but is not limited to and to:~~ (3-24-22)( )

- a. ~~Information required to d~~Determine compliance with the antidegradation policy and antidegradation implementation provisions ~~set forth~~ in IDAPA 58.01.02.051 and 052, “Water Quality Standards”; (3-24-22)( )
- b. ~~Information required to d~~Determine compliance with the mixing zone provisions ~~set forth~~ in IDAPA 58.01.02.060, “Water Quality Standards”; or (3-24-22)( )
- c. ~~Information necessary for the Department to a~~uthorize a compliance schedule under IDAPA 58.01.02.400, “Water Quality Standards.” (3-24-22)( )

**06. Application Requirements for Dischargers Other than Treatment Works Treating Domestic Sewage (TWTDS), Publicly Owned Treatment Works (POTWs), and Pesticide Applicators.** An applicant for an IPDES permit other than a POTW and ~~other~~ TWTDS, must provide the following information to the Department, using the appropriate forms specified in Subsection 105.04: (3-24-22)( )

- a. ~~The a~~Applicant’s activity ~~that~~ requires ing an IPDES permit; (3-24-22)( )
- b. ~~The n~~Name, mailing address, e-mail address, and location of the facility for ~~which~~ the submitted application ~~is submitted~~; (3-24-22)( )
- c. Up to four (4) Standard Industrial Classification (SIC) or North American Industrial Classification System (NAICS) codes ~~that best~~ identify ing the principal products or services provided by the facility; (3-24-22)( )
- d. ~~The o~~Operator’s name, mailing address, e-mail address, telephone number, ownership status, Employer Identification Number (EIN) or Department equivalent, and status as federal, state, private, public, or other entity; (3-24-22)( )
- e. ~~A s~~Statement that the facility is located not in Indian country, if applicable; (3-24-22)( )
- f. ~~A l~~Listing of ~~all~~ permits or construction approvals received or applied for under ~~any of the following programs~~: (3-24-22)( )
  - i. Hazardous waste management program under IDAPA 58.01.05, “Rules and Standards for Hazardous Waste”; ( )
  - ii. Underground injection control (UIC) program under the Idaho Department of Water Resources UIC program at IDAPA 37.03.03, “Rules and Minimum Standards for the Construction and Use of Injection Wells”; ( )
  - iii. IPDES program under IDAPA 58.01.25 ~~“Rules Regulating the Idaho Pollutant Discharge Elimination System Program Rules”~~; (3-24-22)( )
  - iv. Prevention of significant deterioration (PSD) program under IDAPA 58.01.01, “Rules for Control of Air Pollution in Idaho”; ( )
  - v. Nonattainment program under IDAPA 58.01.01, “Rules for Control of Air Pollution in Idaho”; ( )

- vi. National emission standards for hazardous pollutants (NESHAPS) preconstruction approval under IDAPA 58.01.01, "Rules for Control of Air Pollution in Idaho"; ( )
- vii. Dredge or fill permits under the Clean Water Act section 404; or ( )
- viii. Other relevant environmental permits, programs or activities, ~~including those~~ subject to state jurisdiction, approval, and permits, including IDAPA 58.01.17, "Recycled Water Rules"; and (3-24-22)( )
- g. ~~A~~Topographic map, or other map if a topographic map is unavailable, extending one (1) mile beyond the property boundaries of the source, depicting the: (3-24-22)( )
  - i. ~~The~~Facility and each of its intake and discharge structures; (3-24-22)( )
  - ii. ~~The~~Location of the facility's hazardous waste treatment, storage, or disposal areas; (3-24-22)( )
  - iii. ~~The~~Location of each well where fluids from the facility are injected underground; and (3-24-22)( )
  - iv. ~~The~~Location of wells, springs, other surface water bodies, and drinking water wells listed in public records or ~~otherwise~~ known by the applicant to exist in the map area; and (3-24-22)( )
- h. ~~A~~brief ~~d~~Description of the nature of the business; (3-24-22)( )
- i. ~~An indication of~~Indicate whether the facility uses cooling water and the source of the cooling water; and (3-24-22)( )
- j. ~~An indication of~~Indicate whether the facility is requesting any ~~of the~~ variances in Subsection 310.01 if known at the time of application. (3-24-22)( )

**07. Application Requirements for Existing Manufacturing, Commercial, Mining and Silviculture Dischargers.** ( )

- a. Except for a facility subject to the requirements in Subsection 105.08, an applicant for an IPDES permit for an existing discharge from a manufacturing, commercial, mining, or silviculture facility or activity must provide the following information to the Department, using the ~~applicable~~ forms specified in Subsection 105.04: (3-24-22)( )
  - i. For each outfall: ( )
    - (1) ~~The~~Latitude and longitude to the nearest second (or equivalent) and the name of each receiving water; (3-24-22)( )
    - (2) ~~A narrative~~identifying each type of process, operation, or production area that contributes wastewater to the effluent from that outfall, including process wastewater, cooling water, and storm water runoff; processes, operations, or production areas may be described in general terms, such as dye-making reactor or distillation tower; (3-24-22)( )
    - (3) ~~The a~~Average flow that each process contributes and a description of the wastewater treatment ~~the wastewater~~ receives d, including the ultimate disposal of ~~any~~ solid or fluid wastes other than by discharge; (3-24-22)( )
    - (4) For a privately owned treatment works, ~~the identity of~~ identify each user of the treatment works; and (3-24-22)( )
    - (5) ~~The a~~Average flow of point sources composed of storm water. ~~For this subsection, t~~The average

flow may be estimated, and the basis for the rainfall event with the method of estimation must be submitted; (3-24-22)( )

ii. ~~A description of~~ Describe the frequency, duration, and flow rate of each ~~discharge~~ occurrence for any ~~of the discharges described~~ discharge specified in Subsections 105.07.a.i(2) through (5) that are intermittent or seasonal, except for storm water runoff, spillage, or leaks; (3-24-22)( )

iii. ~~A~~ Reasonable measure of the applicant's actual production reported in the units used in the applicable effluent guideline, ~~ELG~~ if an effluent guideline promulgated ~~the ELG~~ under the Clean Water Act section CWA Section 304 applies to the applicant and is expressed ~~in terms of as~~ production or ~~an~~ other measure of operation. The reported measure must reflect the actual production of the facility as required by Subsection 303.02.b.; (3-24-22)( )

iv. If the applicant is subject to ~~any~~ present requirements or compliance schedules for construction, upgrading, or operation of waste treatment equipment, ~~an identification of~~ identify the abatement requirement, ~~a description of~~ describe the abatement project, and ~~a listing of~~ list the required and projected final compliance dates; (3-24-22)( )

v. ~~A listing of any~~ List the toxic pollutants ~~s that~~ the applicant currently uses or manufactures as an intermediate or final product or byproduct, except ~~that~~ the Department may waive or modify this requirement; (3-24-22)( )

(1) If the applicant demonstrates ~~that it would be unduly burdensome~~ an undue burden to identify each toxic pollutant; and (3-24-22)( )

(2) The Department has adequate information to issue the permit; ( )

vi. ~~An identification of any~~ Identify biological toxicity tests ~~that~~ the applicant knows or ~~has reason to believe have been~~ believes was made within the last three (3) years on ~~any of~~ the applicant's discharges or on ~~discharges to~~ a receiving water in relation to a discharge; and (3-24-22)( )

vii. ~~The identity of~~ Identify each laboratory or firm and the analyses performed, if a contract laboratory or consulting firm performed ~~any of~~ the analyses required by Subsection 105.07.c. through m. (3-24-22)( )

b. ~~The~~ Owner or operator of a facility ~~subject to this subsection~~ must submit, with an application, a line drawing of the water flow through the facility with a water balance, showing operations contributing wastewater to the effluent and treatment units. (3-24-22)( )

i. In the line drawing, similar processes, operations, or production areas may be indicated as a single unit, labeled to correspond to the more detailed identification under Subsections 105.07.a.i(2) through (5). ( )

ii. ~~The w~~ Water balance must show approximate average flows at intake and discharge points and between units, including treatment units. (3-24-22)( )

iii. If a water balance cannot be determined for certain activities, the applicant may ~~instead~~ provide a pictorial description of the nature and amount of ~~any~~ sources of water and ~~any~~ collection and treatment measures. (3-24-22)( )

c. In addition to the ~~items of~~ information listed in Subsections 105.07.a. through 105.07.b., and except for information on storm water discharges required by 40 CFR 122.26, an applicant for an IPDES permit for an existing facility described in Subsection 105.07.a. must: (3-24-22)( )

i. Collect, prepare, and submit information ~~regarding on~~ the effluent characteristics and discharge of pollutants specified in this section; and (3-24-22)( )

ii. When quantitative data for a pollutant are required, collect a sample of effluent and analyze it for the pollutant ~~in accordance with~~ following the analytical methods approved ~~under in~~ 40 CFR Part 136, except ~~that~~

when no analytical method is approved, the applicant may use ~~and must describe any~~ suitable method ~~but must describe the method.~~ (3-24-22)( )

d. An applicant under this subsection must: ( )

i. Use grab samples ~~in to~~ providing ~~information regarding on~~ cyanide, total phenols, residual chlorine, oil and grease, fecal coliform (including *E. coli*), enterococci (previously known as fecal streptococcus), and volatile organics; temperature, pH, ~~and~~ dissolved oxygen, ~~and~~ Residual chlorine effluent data may be obtained from grab samples or from calibrated and properly maintained continuous monitors; (3-24-22)( )

ii. For all other pollutants, use twenty-four (24) hour composite samples, unless specified otherwise at 40 CFR Part 136, with ~~a minimum of at least~~ four (4) grab samples, except ~~that a minimum of at least~~ one (1) grab sample may be taken for effluents from holding ponds or other impoundments with a retention period greater than twenty-four (24) hours; (3-24-22)( )

e. For ~~purposes of~~ Subsection 105.07.c., exceptions to testing and data provision requirements for effluent characteristics include: (3-24-22)( )

i. When an applicant has two (2) or more outfalls with substantially identical effluents, the Department may allow the applicant to test only one (1) outfall and ~~report that~~ the quantitative data ~~reported will~~ also apply to the substantially identical outfall; and (3-24-22)( )

ii. An applicant's duty under Subsections 105.07.j., k., and l. to provide quantitative data for certain pollutants known or believed to be present does not apply to pollutants present in a discharge solely ~~as the result of~~ ~~resulting from~~ their presence in intake water; however, an applicant must report ~~that~~ those pollutants are present. (3-24-22)( )

f. For storm water discharges, associated with an existing facility described in Subsection 105.07.a., from storm events ~~which that~~ yield more than one-tenth (0.1) inch of rainfall: (3-24-22)( )

i. ~~All~~ Samples must be collected from the discharge resulting from a storm event and at least seventy-two (72) hours after the previously measurable storm event exceeding one-tenth (0.1) inch rainfall. Where feasible, the variance in the duration of the event and the total rainfall of the event should not exceed fifty percent (50%) from the average or median rainfall event in that area; and (3-24-22)( )

ii. For all applicants, a flow-weighted composite sample must be taken for either the entire discharge or for the first three (3) hours of the discharge, except for ~~the following~~: (3-24-22)( )

(1) ~~The~~ Sampling may be conducted with a continuous sampler or ~~as~~ a combination of ~~a minimum of at least~~ three (3) sample aliquots taken in each hour of discharge for the entire discharge or for the first three (3) hours of the discharge, with each aliquot ~~being~~ separated by ~~a minimum period of at least~~ fifteen (15) minutes. If the Department approves, an applicant for a storm water discharge permit under Subsection 105.18 may collect flow-weighted composite samples using different protocols with respect to the time duration between the collection of sample aliquots; (3-24-22)( )

(2) A minimum of one (1) grab sample may be taken for storm water discharges from holding ponds or other impoundments with a retention period greater than twenty-four (24) hours; or ( )

(3) For a flow-weighted composite sample, only one (1) analysis of the composite of aliquots is required; ( )

iii. For samples taken from discharges associated with industrial activities, quantitative data must be reported for the grab sample taken during the first thirty (30) minutes, or as soon ~~thereafter~~ as practicable, of the discharge for ~~all~~ pollutants specified in Subsection 105.19 except ~~that~~ for all storm water permit applicants taking flow-weighted composites, quantitative data must be reported for ~~all~~ pollutants specified in 40 CFR 122.26(a) through (b) and (e) through (g), Subsections 105.18 and 105.19, but not for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, fecal coliform (including *E. coli*), and enterococci (previously known as fecal

streptococcus); (3-24-22)( )

iv. The Department may, on a case-by-case basis, allow or establish appropriate site-specific sampling procedures or requirements, including: ( )

(1) Sampling locations; ( )

(2) ~~The s~~Season in which the sampling takes place; (3-24-22)( )

(3) ~~The m~~Minimum duration between the previous measurable storm event and the sampled storm event; (3-24-22)( )

(4) ~~The m~~Minimum or maximum level of precipitation required for an appropriate storm event; (3-24-22)( )

(5) ~~The f~~Form of precipitation sampled, whether snow melt or rain fall; (3-24-22)( )

(6) Protocols for collecting samples under 40 CFR Part 136; and ( )

(7) Additional time for submitting data; and ( )

v. An applicant ~~is deemed to~~ knows or ~~have reason to~~ believes ~~that~~ a pollutant is present in an effluent if an evaluation of the expected use, production, or storage of the pollutant, or ~~any~~ previous analyses for the pollutant, show ~~s~~ ~~that~~ ~~e~~ pollutant's presence. (3-24-22)( )

g. Unless a reporting requirement is waived under Subsection 105.07.h., ~~every~~ applicants subject to this subsection must report quantitative data for the following pollutants for every outfall: (3-24-22)( )

i. 5-day biochemical oxygen demand (BOD5); ( )

ii. Chemical oxygen demand (COD); ( )

iii. Total organic carbon (TOC); ( )

iv. Total suspended solids (TSS); ( )

v. Ammonia, as N; ( )

vi. Temperature (both winter and summer); and ( )

vii. pH. ( )

h. The Department may waive the reporting requirements under Subsection 105.07.g. for individual point sources or for a particular industry category for one (1) or more of the pollutants listed in Subsection 105.07.g. if the applicant demonstrates that information adequate to support ~~issuance of~~ ~~issuing~~ a permit can be obtained with less stringent requirements. (3-24-22)( )

i. Except as provided in Subsection 105.07.o., an applicant with an existing facility described in Subsection 105.07.a. that has processes that qualify in one (1) or more of the primary industry categories shown in Appendix A to 40 CFR Part 122 contributing to a discharge, must report quantitative data for pollutants in each outfall containing process wastewater as follows: ( )

i. Data for the organic toxic pollutants listed in Table II of Appendix D to 40 CFR Part 122 in the fractions designated in Table I of Appendix D to 40 CFR Part 122. ~~For purposes of~~ ~~In~~ this subsection: (3-24-22)( )

(1) Table II of Appendix D to 40 CFR Part 122, lists the organic toxic pollutants in each fraction that

result from the sample preparation required by the analytical procedure ~~that uses~~ using gas chromatography/mass spectrometry; and (3-24-22)( )

(2) If the Department determines ~~that~~ an applicant falls within an industrial category for ~~the purposes of~~ selecting fractions for testing, ~~that the~~ determination does not establish the applicant's category for any other purpose; ~~see~~ (Notes 2 and 3 to 40 CFR 122.21); and (3-24-22)( )

ii. Data for the toxic metals, cyanide, and total phenols listed in Table III of Appendix D to 40 CFR Part 122. ( )

j. An applicant ~~under this section~~ must disclose whether ~~the applicant he~~ knows or ~~has reason to believe~~s that any of the conventional and nonconventional pollutants in Table IV of Appendix D to 40 CFR Part 122 are discharged from each outfall. If an ~~applicable effluent limitations guideline~~ ELG limits the pollutant either directly or indirectly by express limitations on an indicator, the applicant must report quantitative data. For every pollutant discharged that is not limited in an ~~effluent limitations guideline~~ ELG, the applicant must either report quantitative data or briefly describe the reasons the pollutant is expected to be discharged. (3-24-22)( )

k. An applicant ~~under this subsection~~ must disclose whether ~~the applicant he~~ knows or ~~has reason to believe~~s that any of the organic toxic pollutants listed in Table II or the toxic metals, cyanide, or total phenols listed in Table III of Appendix D to 40 CFR Part 122 for which quantitative data are not otherwise required under Subsection 105.07.i., are discharged from each outfall. Unless ~~an applicant~~ qualifies ~~d~~ as a small business under Subsection 105.07.o., the applicant must: (3-24-22)( )

i. Report quantitative data for every pollutant expected to be discharged in concentrations of ten (10) parts per billion or greater; ( )

ii. Report quantitative data for acrolein, acrylonitrile, 2,4 dinitrophenol, and 2-methyl-4, 6 dinitrophenol, if any of these four (4) pollutants are expected to be discharged in concentrations of one hundred (100) parts per billion or greater; and ( )

iii. For every pollutant expected to be discharged in concentrations less than ten (10) parts per billion, ~~or in the case of~~ ~~for~~ acrolein, acrylonitrile, 2,4 dinitrophenol, and 2-methyl-4, 6 dinitrophenol, in concentrations less than one hundred (100) parts per billion, either submit quantitative data, or ~~briefly~~ describe the reasons the pollutant is expected to be discharged and submit ~~any~~ supporting documentation. (3-24-22)( )

l. An applicant ~~under this subsection~~ must disclose whether ~~the applicant he~~ knows or ~~has reason to believe~~s that asbestos or ~~any of~~ the hazardous substances listed in Table V of Appendix D to 40 CFR Part 122 are discharged from each outfall. For every pollutant expected to be discharged, the applicant must ~~briefly~~ describe the reasons the pollutant is expected to be discharged and report ~~any~~ quantitative data ~~it has~~ for any pollutant. (3-24-22)( )

m. An ~~applicant under this subsection~~ must disclose and report qualitative data, generated using a screening procedure not calibrated with analytical standards, for 2,3,7, 8-tetrachlorodibenzo-p-dioxin (TCDD) if the applicant: (3-24-22)( )

i. Uses or manufactures ~~the following~~: (3-24-22)( )

(1) 2,4,5-trichlorophenoxy acetic acid (2,4,5,-T); ( )

(2) 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5,-TP); ( )

(3) 2-(2,4,5-trichlorophenoxy) ethyl, 2,2-dichloropropionate (Erbon); ( )

(4) o,o-dimethyl o-(2,4,5-trichlorophenyl) phosphorothioate (Ronnell); ( )

(5) 2,4,5-trichlorophenol (TCP); or ( )

- (6) Hexachlorophene (HCP); or ( )
- ii. Knows or ~~has reason to~~ believes that TCDD is or may be present in an effluent. (3-24-22)( )
- n. Where quantitative data are required in Subsections 105.07.c. through m., existing data may be used, if available, in lieu of sampling done solely for ~~the purpose of~~ the application, provided ~~that all~~: (3-24-22)( )
- i. ~~All d~~Data requirements are met; sampling was performed, collected, and analyzed no more than four and one-half (4 ½) years ~~prior to~~ before submission; (3-24-22)( )
- ii. ~~All d~~Data are representative of the discharge; and (3-24-22)( )
- iii. ~~All a~~Available representative data are considered in the values reported. (3-24-22)( )
- o. An applicant ~~under this subsection~~ is exempt from the quantitative data requirements in Subsections 105.07.i. or 105.07.j. for the organic toxic pollutants listed in Table II of Appendix D to 40 CFR Part 122, if ~~that applicant~~ he qualifies as a small business under one (1) of the following criteria: (3-24-22)( )
- i. ~~The applicant is a c~~Coal mine with an expected total annual production of less than one hundred thousand (100,000) tons per year; or (3-24-22)( )
- ii. ~~The applicant has g~~Gross total annual sales averaging less than two hundred eighty-seven thousand, three hundred dollars (\$287,300) per year in 2014 dollars. (3-24-22)( )
- p. In addition to the information reported on the application ~~form~~, an applicant ~~under this subsection~~ must provide at the Department's request, ~~any~~ other information ~~that may be reasonably~~ required to assess the discharges of the facility and to determine whether to issue an IPDES permit. ~~The additional~~ This information may include ~~additional~~ quantitative data and bioassays to assess the relative toxicity of discharges to aquatic life and ~~information required~~ to determine the cause of the toxicity. (3-24-22)( )
- 08. Application Requirements for New or Existing Manufacturing, Commercial, Mining, and Silviculture Facilities that Discharge only ~~Non-Process~~ Non-process Wastewater.** (3-24-22)( )
- a. An applicant that is a manufacturing, commercial, mining, or silvicultural discharger that discharges only non-process wastewater not regulated by an ~~effluent limitations guideline~~ ELG or new source performance standard must provide the following information to the Department for all discharges, except for storm water discharges, using the ~~applicable~~ forms specified in Subsection 105.04: (3-24-22)( )
- i. ~~The n~~Number of each outfall, ~~the~~ latitude and longitude to the nearest second ~~(or equivalent)~~, and ~~the~~ name of each receiving water; (3-24-22)( )
- ii. For a new discharger, the date of expected commencement of discharge; ( )
- iii. ~~An identification of~~Identify the general type of waste discharged, or expected to be discharged upon commencement of operations, including sanitary wastes, restaurant or cafeteria wastes, or non-contact cooling water; (3-24-22)( )
- iv. ~~An identification of~~Identify cooling water additives, ~~if any~~, that are used or expected to be used upon commencement of operations, ~~along~~ with their composition if existing composition is available; (3-24-22)( )
- v. Effluent characteristics prepared and submitted as described in Subsections 105.08.b. and 105.08.c.; ( )
- vi. ~~A description of~~Describe the frequency of flow and duration of ~~any~~ seasonal or intermittent discharge, except for storm water runoff, leaks, or spills; (3-24-22)( )

- vii. ~~A brief description of any~~ Describe the treatment system used or to be used; (3-24-22)( )
- viii. ~~Any additional information the applicant wishes to be~~ wants considered, such as influent data for the purpose of obtaining net credits under Subsection 303.07; and (3-24-22)( )
- ix. ~~The~~ Signature of the certifying official under Section 090. (Signature Requirements). (3-24-22)( )
- b. Except as otherwise provided in Subsections 105.08.d. through g., an application for a discharger described in Subsection 105.08.a. must include quantitative data for the following pollutants or parameters: (3-24-22)( )
  - i. 5-day biochemical oxygen demand (BOD5); ( )
  - ii. Total suspended solids (TSS); ( )
  - iii. Fecal coliform (including *E. coli*), if believed present or if sanitary waste is or will be discharged; ( )
  - iv. Total residual chlorine (TRC), if chlorine is used; ( )
  - v. Oil and grease; ( )
  - vi. Chemical oxygen demand (COD), if non-contact cooling water is or will be discharged; ( )
  - vii. Total organic carbon (TOC), if non-contact cooling water is or will be discharged; ( )
  - viii. Ammonia, as N; ( )
  - ix. Discharge flow; ( )
  - x. pH; and ( )
  - xi. Temperature, both in winter and summer, respectively. (3-24-22)( )
- c. ~~For purposes of the~~ Data required under Subsection 105.08.b.: (3-24-22)( )
  - i. Grab samples must be used for oil and grease, fecal coliform (including *E. coli*), and volatile organics. Temperature, pH, and TRC effluent data may be obtained from grab samples or from calibrated and properly maintained continuous monitors; ( )
  - ii. Twenty-four (24) hour composite samples must be used for pollutants listed in Subsection 105.08.b., other than those specified in Subsection 105.08.c.i., unless specified otherwise at in 40 CFR Part 136. Twenty-four (24) hour composite samples must comprise; at a minimum, be composed of least four (4) grab samples unless specified otherwise at in 40 CFR Part 136. For a composite sample, only one (1) analysis of the composite aliquots is required; (3-24-22)( )
  - iii. The quantitative data may be collected over the past three hundred sixty-five (365) days, ~~as long as if the data is representative of~~ represents current operations, and must include maximum daily value, average daily value, and number of measurements taken; and (3-24-22)( )
  - iv. The applicant must collect and analyze samples in accordance with 40 CFR Part 136. ( )
- d. The Department may waive the testing and reporting requirements for ~~any of~~ the pollutants or flow listed in Subsection 105.08.c. if the applicant requests a waiver before or with its application ~~or earlier~~, and demonstrates that information adequate to support permit issuance can be obtained through less stringent



requirements. (3-24-22)( )

e. If the applicant is a new discharger, the applicant must: ( )

i. Complete and submit Item IV of EPA Form 2E, ~~or the Department~~ equivalent, ~~according to in accordance with~~ Subsection 105.04.a.iv., by providing quantitative data ~~in compliance that complies~~ with ~~that~~ section no later than two (2) years after the discharge commences, except ~~that~~ the applicant ~~does not need not to~~ complete ~~these~~ portions of Item IV requiring tests ~~that the applicant has~~ already performed and reported under the discharge monitoring requirements of ~~its the~~ IPDES or NPDES permit; and (3-24-22)( )

ii. Include estimates and the source of each estimate instead of sampling data for the pollutants or parameters listed in Subsection 105.08.b.; ( )

f. For ~~purposes of~~ the required data ~~required under this subsection, all~~ pollutant levels must be reported or estimated as concentration and as total mass, except for flow, pH, and temperature. Submittal of ~~all~~ estimated data must be accompanied by documents supporting the estimated value. (3-24-22)( )

g. An applicant's duty, under Subsections 105.08.b., c., and e., to provide quantitative data or estimates of certain pollutants does not apply to pollutants present in a discharge solely ~~as a result of resulting from~~ their presence in intake water. ~~However, an An~~ applicant must report the presence of those pollutants. If the requirements of Subsection 303.07 are met, net credit may be provided for the presence of pollutants in intake water. (3-24-22)( )

**09. Application Requirements for New and Existing Concentrated Animal Feeding Operations (CAFO).** An applicant for an IPDES permit for a new or existing CAFO, as defined in 40 CFR 122.23(b) must provide the following information to the Department, using the ~~applicable~~ forms specified in Subsection 105.04: (3-24-22)( )

a. ~~The n~~Name of the owner ~~or and~~ operator; (3-24-22)( )

b. ~~The f~~Facility location and mailing addresses; (3-24-22)( )

c. Latitude and longitude of the production area to the nearest second (or equivalent), measured at the entrance to the production area; (3-24-22)( )

d. ~~A t~~Topographic map of the geographic area ~~in which where~~ the ~~concentrated animal feeding operation CAFO~~ is located, showing the specific location of the production area; (3-24-22)( )

e. Specific information about the number and type of animals, including, if applicable: beef cattle, broilers, layers, swine weighing fifty-five (55) pounds or more, swine weighing less than fifty-five (55) pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, or other animals, whether in open confinement or housed under roof; ( )

f. ~~The t~~Type of containment and total capacity in tons or gallons of any anaerobic lagoon, roofed storage shed, storage pond, under-floor pit, above-ground storage tank, below-ground storage tank, concrete pad, impervious soil pad, or other structure or area used for containment and storage of manure, litter, and process wastewater; (3-24-22)( )

g. ~~The t~~Total number of acres available and under the applicant's control for land application of manure, litter, or process wastewater; (3-24-22)( )

h. Estimated amounts of manure, litter, and process wastewater generated per year in tons or gallons; ( )

i. Estimated amounts of manure, litter, and process wastewater transferred to other persons per year in tons or gallons; and ( )

j. A ~~completed~~ nutrient management plan that ~~has been completed and~~ will be implemented upon the date of permit coverage. A nutrient management plan must meet, at a minimum, the requirements specified in 40 CFR 122.42(e), including ~~for~~ all CAFOs subject to 40 CFR 412.30 through 412.37, 412.40 through 412.47, or the requirements of 40 CFR 412.4(c), ~~as applicable~~. (3-24-22)( )

**10. Application Requirements for New and Existing Concentrated Aquatic Animal Production (CAAP) Facilities.** An applicant for an IPDES permit for a new or existing CAAP facility must provide the following information, using the ~~applicable~~ forms specified in Subsection 105.04: (3-24-22)( )

a. ~~The m~~Maximum daily and average monthly flow from each outfall; (3-24-22)( )

b. ~~The n~~Number of ponds, raceways, and similar structures; (3-24-22)( )

c. ~~The n~~Name of the receiving water and the source of intake water; (3-24-22)( )

d. ~~For~~Total yearly and maximum harvestable weight for each species of aquatic animal, ~~the total yearly and maximum harvestable weight~~; and (3-24-22)( )

e. ~~The e~~Calendar month of maximum feeding and the total mass of food fed during that month. (3-24-22)( )

**11. Application Requirements for New and Existing POTWs and Other Dischargers Designated by the Department.** ( )

a. Except as provided in Subsection 105.11.b., an applicant that is a POTW and any other discharger designated by the Department must provide the information in this subsection, using the ~~applicable~~ forms specified in Subsection 105.04.b. An applicant ~~under this subsection~~ must submit all information available at the time of application; ~~however, they and~~ may ~~provide information by referencing~~ reference information previously submitted to the Department. (3-24-22)( )

b. The Department may waive ~~any~~ requirement of this subsection if it has access to substantially identical information or if that information is not of material concern for a specific permit, if approved by the EPA Regional Administrator. The waiver request to the Regional Administrator must include the Department's justification for the waiver. A Regional Administrator's disapproval of ~~a~~the Department's proposed waiver does not constitute final agency action, but does provide notice to the state and permit applicant(s) that EPA may object to ~~any~~ state-issued permit issued in the absence of the required information. (3-24-22)( )

c. An applicant under this subsection must provide: ( )

i. Name, mailing address, and location of the facility ~~for which the application is submitted~~; (3-24-22)( )

ii. Name, mailing address, e-mail address, ~~EIN or Department equivalent~~, and telephone number of the applicant, and ~~a statement~~ whether the applicant is the facility's owner, operator, or both; (3-24-22)( )

iii. ~~A~~List of all environmental permits or construction approvals received or applied for, including dates, under ~~any of the following programs or types of activities~~: (3-24-22)( )

(1) Hazardous waste management program under IDAPA 58.01.05, "Rules and Standards for Hazardous Waste"; ( )

(2) Underground injection control (UIC) program under the Idaho Department of Water Resources UIC program at IDAPA 37.03.03, "Rules and Minimum Standards for the Construction and Use of Injection Wells"; ( )

(3) IPDES program under IDAPA 58.01.25, "~~Rules Regulating the~~ Idaho Pollutant Discharge Elimination System Program Rules"; (3-24-22)( )

- (4) Prevention of significant deterioration (PSD) program under IDAPA 58.01.01, “Rules for the Control of Air Pollution in Idaho”; ( )
- (5) Nonattainment program under IDAPA 58.01.01, “Rules for the Control of Air Pollution in Idaho”; ( )
- (6) National emission standards for hazardous pollutants (NESHAPS) preconstruction approval under IDAPA 58.01.01, “Rules for the Control of Air Pollution in Idaho”; ( )
- (7) Dredge or fill permits under ~~the Clean Water Act section~~ **CWA Section** 404; (3-24-22)( )
- (8) Sludge Management Program under IDAPA 58.01.16.650, “Wastewater Rules,” and Section 380 (~~Sewage Sludge~~) of these rules; and (3-24-22)( )
- (9) Other relevant environmental permits, programs, or activities, including those subject to state jurisdiction, approval, and permits; ( )
- iv. ~~The n~~ **Name**, population, and EDUs of each municipal entity served by the facility, including unincorporated connector districts, ~~a statement~~ whether each municipal entity owns or maintains the collection system and, if the information is available, whether the collection system is a separate sanitary sewer or a combined storm and sanitary sewer; (3-24-22)( )
- v. ~~A s~~ **Statement** whether the facility is ~~located~~ in Indian country and whether the facility discharges to a receiving stream that flows through Indian country; (3-24-22)( )
- vi. ~~The f~~ **Facility’s** design flow rate, or the wastewater flow rate the plant was built to handle, annual average daily flow rate, and maximum daily flow rate for each of the previous three (3) years; (3-24-22)( )
- vii. ~~A s~~ **Statement** identifying the types of collection systems, either separate sanitary sewers or combined storm and sanitary sewers, used by the treatment works, and an estimate of the percent of sewer line ~~that~~ each type comprises; (3-24-22)( )
- viii. ~~The following i~~ **Information** for outfalls to waters of the United States and other discharge or disposal methods: (3-24-22)( )
- (1) For effluent discharges to waters of the United States, the total number and types of outfalls including treated effluent, combined sewer overflows, bypasses, constructed emergency overflows; ( )
- (2) For wastewater discharged to surface impoundments, the location of each surface impoundment, the average daily volume discharged to each surface impoundment, and ~~a statement~~ whether the discharge is continuous or intermittent; (3-24-22)( )
- (3) For wastewater applied to the land, the location of each ~~land~~ application site, the size in acres of each ~~land~~ application site, the average daily volume in gallons per day applied to each ~~land~~ application site, and ~~a statement~~ whether the ~~land~~ application is continuous or intermittent; (3-24-22)( )
- (4) For effluent sent to another facility for treatment ~~prior to~~ **before** discharge, the ~~means by which~~ **method** the effluent is transported; ~~the~~ name, mailing address, e-mail address, contact person, and phone number of the organization transporting the discharge, if the transport is provided by a party other than the applicant; ~~the~~ name, mailing address, e-mail address, contact person, phone number, and IPDES or NPDES permit number, if any, of the receiving facility; ~~and~~ **the** average daily flow rate from this facility into the receiving facility in million gallons per day (MGD); and (3-24-22)( )
- (5) For wastewater disposed of in a manner not included in Subsections 105.11.c.viii(1) through (4), including underground percolation and underground injection, a description of the disposal method, the location and size of each disposal site, if applicable, the annual average daily volume in gallons per day disposed of by this

method, and ~~a statement~~ whether disposal by this method is continuous or intermittent; and (3-24-22)( )

ix. ~~The n~~Name, mailing address, e-mail address, telephone number, and responsibilities of ~~all~~ contractors responsible for ~~any operational~~ operating or ~~maintenance aspects of~~ maintaining the POTW facility. (3-24-22)( )

x. ~~An indication of~~Indicate whether applicant is operating under or requesting to operate under a variance as specified in Subsection 310.02 if known at the time of application. (3-24-22)( )

d. In addition to the information described in Subsection 105.11.c., an applicant ~~under this subsection~~ with a design flow greater than or equal to zero point one (0.1) million gallons per day (MGD) must provide: (3-24-22)( )

i. ~~The e~~Current average daily volume in gallons per day of inflow and infiltration, and ~~a statement describing~~ describe steps the facility is taking to minimize inflow and infiltration; (3-24-22)( )

ii. ~~A t~~Topographic map, or other map if a topographic map is unavailable, extending at least one (1) mile beyond property boundaries of the treatment plant including ~~all~~ unit processes, and showing: (3-24-22)( )

(1) ~~The t~~Treatment plant area and unit processes; (3-24-22)( )

(2) ~~The m~~Major pipes or other structures through which wastewater enters the treatment plant and the pipes or other structures through which treated wastewater is discharged from the treatment plant, including outfalls from bypass piping, if applicable; (3-24-22)( )

(3) Each well where fluids from the treatment plant are injected underground; ( )

(4) Wells, springs, and other surface water bodies listed in public records or ~~otherwise~~ known to the applicant within one-quarter (1/4) mile of the property boundaries of the treatment works; (3-24-22)( )

(5) Sewage sludge management facilities including on-site treatment, storage, and disposal sites; and ( )

(6) Each location at which waste classified as hazardous under IDAPA 58.01.05, "Rules and Standards for Hazardous Waste," enters the treatment plant by truck, rail, or dedicated pipe; ( )

iii. ~~A p~~Process flow diagram or schematic as follows: (3-24-22)( )

(1) ~~A d~~Diagram showing the processes of the treatment plant, including ~~all~~ bypass piping and ~~all~~ backup power sources or redundancy in the system, ~~including~~ a water balance showing ~~all~~ treatment units, ~~including and~~ disinfection, and ~~showing~~ daily average flow rates at influent and discharge points and approximate daily flow rates between treatment units; and (3-24-22)( )

(2) ~~A n~~Narrative description of the diagram; and (3-24-22)( )

iv. ~~The following i~~Information regarding scheduled improvements: (3-24-22)( )

(1) ~~The o~~Outfall number of each affected outfall; (3-24-22)( )

(2) ~~A n~~Narrative description of each required improvement; (3-24-22)( )

(3) Scheduled dates for ~~commencement and completion of~~ commencing and completing construction, ~~commencement of~~ commencing discharge and ~~attainment of~~ attaining operational level, and actual completion date for ~~any events~~ listed ~~in this subsection that has been completed~~; and (3-24-22)( )

(4) ~~A d~~Description of permits and authorizations ~~concerning for~~ other federal and state requirements. (3-24-22)( )

- e. An applicant ~~under this subsection~~ must provide the following information for each outfall, including bypass points, through which effluent is discharged, as applicable: (3-24-22)( )
- i. For each outfall: ( )
- (1) ~~The o~~Outfall number; (3-24-22)( )
  - (2) ~~The e~~County, and city or town in which the outfall is located; (3-24-22)( )
  - (3) ~~The l~~Latitude and longitude, to the nearest second; (3-24-22)( )
  - (4) ~~The d~~Distance from shore and depth below surface; (3-24-22)( )
  - (5) ~~The a~~Average daily flow rate, in million gallons per day (MGD); (3-24-22)( )
  - (6) If the outfall has a seasonal or periodic discharge, the number of times per year the discharge occurs, ~~the~~ duration of each discharge, ~~the~~ flow of each discharge, and ~~the~~ months ~~in which~~ when discharge occurs; and (3-24-22)( )
  - (7) ~~A s~~Statement whether the outfall is equipped with a diffuser and the type of diffuser used, such as high-rate; (3-24-22)( )
- ii. For each outfall discharging effluent to waters of the United States, the following receiving water information, if ~~the information is~~ available: (3-24-22)( )
- (1) ~~The n~~Name of each receiving water; (3-24-22)( )
  - (2) ~~The e~~Critical flow of each receiving stream water; and (3-24-22)( )
  - (3) ~~The t~~Total hardness of the receiving stream water at critical low flow; and (3-24-22)( )
- iii. For each outfall discharging to waters of the United States, the following information describing the treatment of the discharges: ( )
- (1) ~~The h~~Highest level of treatment, including primary, equivalent to secondary, secondary, advanced, or other treatment level provided for: (3-24-22)( )
    - (a) ~~The d~~Design biochemical oxygen demand removal percentage; (3-24-22)( )
    - (b) ~~The d~~Design suspended solids removal percentage; (3-24-22)( )
    - (c) ~~The d~~Design phosphorus removal percentage; (3-24-22)( )
    - (d) ~~The d~~Design nitrogen removal percentage; and (3-24-22)( )
    - (e) ~~Any o~~Other removals that an advanced treatment system is designed to achieve; and (3-24-22)( )
  - (2) ~~A description of the t~~Type of disinfection used, and ~~a statement~~ whether the treatment plant de-chlorinates, if disinfection is accomplished through chlorination. (3-24-22)( )
- f. In addition to Subsection 105.11.a., and except as provided in Subsection 105.11.h., an applicant ~~under this subsection~~ must undertake sampling and analysis and submit effluent monitoring information for samples taken from each outfall ~~through which~~ where effluent is discharged to waters of the United States, except for combined sewer overflows, including ~~the following if applicable~~: (3-24-22)( )

- i. ~~Sampling and analysis for the p~~Pollutants listed in Appendix J, Table 1A to 40 CFR Part 122; (3-24-22)( )
- ii. For an applicant with a design flow greater than or equal to zero point one (0.1) million gallons per day (MGD), ~~sampling and analysis for the~~ pollutants listed in Appendix J, Table 1 to 40 CFR Part 122, except ~~that~~ a facility that does not use chlorine for disinfection, does not use chlorine elsewhere in the treatment process, and has no reasonable potential to discharge chlorine in the facility's effluent, is not required to sample or analyze chlorine; (3-24-22)( )
- iii. ~~Sampling and analysis for the p~~Pollutants listed in Appendix J, Table 2 to 40 CFR Part 122 and ~~for any other pollutants for which the state or EPA has established water quality standards applicable to~~ for the receiving waters if the facility is a POTW: (3-24-22)( )
- (1) ~~A POTW that has~~With a design flow rate equal to or greater than one (1) million gallons per day (MGD); (3-24-22)( )
- (2) ~~A POTW that has~~With an approved pretreatment program; (3-24-22)( )
- (3) ~~A POTW that is r~~Required to develop a pretreatment program; or (3-24-22)( )
- (4) ~~Any POTW, as required by t~~The Department ~~to ensure re~~ compliance with these rules; (3-24-22)( )
- iv. Sampling and analysis for additional pollutants, as the Department may require, on a case-by-case basis; ( )
- v. Data from ~~a minimum of at least~~ three (3) samples taken within four and one-half (4 ½) years before the date of the permit application; to meet this requirement: (3-24-22)( )
- (1) Samples must ~~be representative of~~ represent the seasonal variation in the discharge from each outfall; (3-24-22)( )
- (2) Existing data may be used, if available, in lieu of sampling done solely for ~~the purpose of~~ this application; and (3-24-22)( )
- (3) Additional samples may be required by the Department on a case-by-case basis; and ( )
- vi. ~~All e~~Existing data for pollutants specified in Subsections 105.11.f.i. through iv. collected within four and one-half (4 ½) years of the application. This data must be included in the pollutant data summary submitted by the applicant, except ~~that~~ if the applicant samples for a specific pollutant on a monthly or more frequent basis, only the data collected for that pollutant within one (1) year of the application must be provided. (3-24-22)( )
- g. To meet the information requirements of Subsection 105.11.f., an applicant must: ( )
- i. Collect samples of effluent and analyze the samples for pollutants ~~in accordance with~~ following the analytical methods approved under 40 CFR Part 136 unless an alternative is specified in the existing IPDES or NPDES permit; (3-24-22)( )
- ii. Use the following methods: ( )
- (1) Grab samples for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, fecal coliform (including *E. coli*), and volatile organics. Temperature, pH, dissolved oxygen, and residual chlorine data may be obtained from grab samples or from calibrated and properly maintained continuous monitors; ( )
- (2) Twenty-four (24) hour composite samples for ~~all~~ other pollutants, unless specified otherwise at 40 CFR Part 136, using ~~a minimum of at least~~ four (4) grab samples; for a composite sample, only one (1) analysis of the composite of aliquots is required; and (3-24-22)( )

- iii. Provide at least the following information for each parameter: ( )
  - (1) Maximum daily discharge, expressed as concentration or mass, based upon actual sample values; ( )
  - (2) Average daily discharge for all samples, expressed as concentration or mass, and the number of samples used to obtain this value; ( )
  - (3) ~~The a~~A analytical method used; and (3-24-22)( )
  - (4) ~~The t~~T threshold level, such as the method detection limit, minimum level, or other designated method endpoint for the analytical method used; and (3-24-22)( )
- iv. Report metals as total recoverable, unless the Department requires otherwise. ( )

**h.** When an applicant ~~under this subsection~~ has two (2) or more outfalls with substantially identical effluent discharging to the same receiving water segment, the Department may, on a case-by-case basis, allow the applicant to submit sampling data for only one (1) outfall. The Department may also allow an applicant to composite samples from one (1) or more outfalls that discharge into the same mixing zone, ~~pursuant to under~~ IDAPA 58.01.02, "Water Quality Standards." For POTWs applying ~~prior to commencement of~~ before commencing discharge, data must be submitted no later than twenty-four (24) months after ~~the commencement of~~ discharge commences. (3-24-22)( )

**12. Whole Effluent Toxicity (WET) Monitoring for POTWs. ( )**

**a.** An applicant for a permit under Subsection 105.11 must submit information on effluent monitoring for WET, ~~including an identification of any~~ by identifying WET tests conducted during the four and one-half (4 ½) years before the application date ~~of the application~~ on ~~any of the applicant's~~ discharges or on ~~any~~ receiving water near the discharge. For POTWs applying ~~prior to~~ before discharge commencement ~~s of discharge~~, data must be submitted no later than twenty-four (24) months after ~~the commencement of~~ discharge commences. (3-24-22)( )

**b.** An applicant under Subsection 105.11 must submit to the Department, in compliance with Subsections 105.12.c. through f., the results of valid WET tests for acute or chronic toxicity for samples taken from each outfall ~~through which~~ where effluent is discharged to surface waters, except for combined sewer overflows, if the applicant: (3-24-22)( )

- i. Has a design flow rate greater than or equal to one (1) million gallons per day (MGD); ( )
- ii. Has an approved pretreatment program or is required to develop a pretreatment program; or ( )
- iii. Is required to comply with this subsection by the Department, based on consideration of ~~the following factors~~: (3-24-22)( )
  - (1) ~~The v~~Variability of the pollutants or pollutant parameters in the POTW effluent based on chemical-specific information, ~~the~~ type of treatment plant, and types of industrial contributors; (3-24-22)( )
  - (2) ~~The r~~Ratio of effluent flow to receiving stream flow; (3-24-22)( )
  - (3) Existing controls on point or non-point sources, including total maximum daily load (TMDL) calculations for the receiving stream segment and the relative contribution of the POTW; (3-24-22)( )
  - (4) Receiving water characteristics, including possible or known water quality impairment, and whether the POTW discharges to a water designated as an outstanding natural resource water; or ( )
  - (5) Other considerations, including the history of toxic impacts and compliance problems at the POTW

that the Department determines ~~could~~ may cause or contribute to adverse water quality impacts. (3-24-22)( )

c. When an applicant under Subsection 105.11 has two (2) or more outfalls with substantially identical effluent discharging to the same receiving water segment, the Department may, on a case-by-case basis, allow the applicant to submit ~~whole effluent toxicity~~ WET data for only one (1) outfall. The Department may also allow an applicant to composite samples from one (1) or more outfalls that discharge into the same mixing zone. (3-24-22)( )

d. An applicant under Subsection 105.12.b. that is required to perform WET testing must provide: ( )

i. Results of ~~a minimum of~~ at least four (4) quarterly tests for a year, from the year preceding the permit application or results from four (4) tests performed at least annually in the four and one-half (4 ½) year period before the application, if the results show no appreciable toxicity using a safety factor determined by the Department; (3-24-22)( )

ii. ~~The n~~Number of chronic or acute ~~whole effluent toxicity~~ WET tests ~~that have been~~ conducted since the last permit reissuance; (3-24-22)( )

iii. ~~The r~~Results using the form provided by the Department, or test summaries, if available and comprehensive, for each WET test conducted ~~under this subsection for which~~ if the information has not been reported previously to the Department; (3-24-22)( )

iv. For WET data submitted to the Department within four and one-half (4 ½) years before the date of the application, the dates on which the data were submitted and a summary of the results; and ( )

v. ~~Any i~~Information on the cause of toxicity and written details of any toxicity reduction evaluation conducted, if ~~any~~ WET tests conducted within the past four and one-half (4 ½) years revealed toxicity. (3-24-22)( )

e. An applicant under Subsection 105.11 must conduct tests with no less than two (2) species, including fish, invertebrate, or plant, and test for acute or chronic toxicity, depending on the range of receiving water dilution. Unless the Department directs otherwise, an applicant must conduct acute or chronic testing based on ~~the following dilutions:~~ (3-24-22)( )

i. Acute toxicity testing if the dilution of the effluent is greater than a ratio of one thousand to one (1,000:1) at the edge of the mixing zone; ( )

ii. Acute or chronic toxicity testing, if the dilution of the effluent is between a ratio of one hundred to one (100:1) and one thousand to one (1,000:1) at the edge of the mixing zone; acute testing may be more appropriate at the higher end of this range (one thousand to one ~~(1,000:1)~~), and chronic testing may be more appropriate at the lower end of this range (one hundred to one (100:1)); or (3-24-22)( )

iii. Chronic testing if the dilution of the effluent is less than a ratio of one hundred to one (100:1) at the edge of the mixing zone. ( )

f. For ~~purposes of~~ the WET testing required by this section, an applicant must conduct testing using methods approved under 40 CFR Part 136. (3-24-22)( )

### 13. Application Requirements for POTWs Receiving Industrial Discharges. ( )

a. An applicant for an IPDES permit as a POTW under Subsection 105.11 must state in its application the number of significant industrial users (SIU) and non-significant categorical industrial users (NSCIU), as defined at 40 CFR 403.3(v), including SIUs and NSCIUs that truck or haul waste, discharging to the POTW. A POTW with one (1) or more SIUs must provide the following information for each SIU that discharges to the POTW: ( )

i. ~~The n~~Name and mailing address of the SIU; (3-24-22)( )



- ii. ~~A d~~Description of all industrial processes that affect or contribute to the SIU's discharge; (3-24-22)( )
  - iii. ~~The p~~Principal products and raw materials of each SIU that affects or contributes to that SIU's discharge; (3-24-22)( )
  - iv. ~~The a~~Average daily volume of wastewater discharged by the SIU, indicating the amount attributable to process flow and non-process flow; (3-24-22)( )
  - v. ~~A statement w~~Whether the SIU is subject to local limits; (3-24-22)( )
  - vi. ~~A statement w~~Whether the SIU is subject to one (1) or more categorical standards, and if so, under which category and subcategory; and (3-24-22)( )
  - vii. ~~A statement w~~Whether ~~any~~ problems at the POTW, including upsets, pass-through, or interference have been attributed to the SIU in the past four and one-half (4 ½) years. (3-24-22)( )
- b.** The ~~Department may waive~~ information required in Subsection 105.13.a. ~~may be waived by the Department~~ for a POTW with a pretreatment program if the applicant ~~has~~ submitted either of the following that contains information substantially identical to the information required in Subsection 105.13.a.: (3-24-22)( )
- i. ~~An a~~Annual report submitted within one (1) year of the application; or (3-24-22)( )
  - ii. ~~A p~~Pretreatment program. (3-24-22)( )
- 14. Application Requirements for POTWs Receiving Discharges from Hazardous Waste Generators and from Waste Cleanup or Remediation Sites.** ( )
- a.** ~~A POTW s~~ receiving hazardous or corrective action wastes or wastes generated at another type of cleanup or remediation site must provide ~~the following information:~~ (3-24-22)( )
- i. If ~~the a~~ POTW receives, or has been notified that it will receive by truck, rail, or dedicated pipe, ~~any~~ wastes ~~that are~~ regulated as hazardous wastes under 40 CFR Part 261 and IDAPA 58.01.05, "Rules and Standards for Hazardous Waste," the applicant must report ~~the following:~~ (3-24-22)( )
    - (1) ~~The method of delivery.~~ How waste is delivered, including by truck, rail, or dedicated pipe, ~~by which the waste is received;~~ and (3-24-22)( )
    - (2) ~~The applicable h~~azardous waste number designated in IDAPA 58.01.05, "Rules and Standards for Hazardous Waste" for the transported waste, and the amount received annually of each hazardous waste; and (3-24-22)( )
  - ii. If the POTW receives, or has been notified that it will receive, wastewater that originates from remedial activities, including those undertaken under Comprehensive Environmental Response, Compensation, and Liability Act, and the Resource Conservation and Recovery Act ~~s~~Sections 3004(u) or 3008(h), the applicant must report ~~the following:~~ (3-24-22)( )
    - (1) ~~The i~~Identity and description of each site or facility at which the wastewater originates; (3-24-22)( )
    - (2) The identity of ~~any~~ known hazardous constituents specified in IDAPA 58.01.05, "Rules and Standards for Hazardous Waste," in the wastewater; and (3-24-22)( )
    - (3) ~~The e~~Extent of ~~any~~ treatment the wastewater receives or will receive before entering the POTW. (3-24-22)( )

b. An applicant ~~under this subsection~~ is exempt from the requirements of Subsection 105.14.a.ii. if ~~the applicant~~ he receives no more than fifteen (15) kilograms per month of hazardous wastes, unless the wastes are acute hazardous wastes as specified in IDAPA 58.01.05, "Rules and Standards for Hazardous Waste." (3-24-22)( )

**15. Application Requirements for POTWs with Combined Sewer Systems and Overflows.** A POTW applicant with a combined sewer system must provide the following information on the combined sewer system and outfalls: ( )

- a. ~~A~~s System map indicating the location of: (3-24-22)( )
  - i. ~~All~~e Combined sewer overflow discharge points; (3-24-22)( )
  - ii. ~~Any~~s Sensitive use areas potentially affected by combined sewer overflows including beaches, drinking water supplies, shellfish beds, and sensitive aquatic ecosystems; (3-24-22)( )

- iii. Outstanding national resource waters potentially affected by combined sewer overflows; and ( )
- iv. Waters supporting threatened and endangered species potentially affected by combined sewer overflows; ( )

b. ~~A~~s System diagram of the combined sewer collection system ~~that includes~~ including the locations of: (3-24-22)( )

- i. Major sewer trunk lines, both combined and separate sanitary; ( )
- ii. Points where separate sanitary sewers feed into the combined sewer system; ( )
- iii. In-line and off-line storage structures; ( )
- iv. Flow-regulating devices; and ( )
- v. Pump stations; ( )

c. Information on each outfall for each combined sewer overflow discharge point covered by the permit application, including: ( )

- i. ~~The~~e Outfall number; (3-24-22)( )
- ii. ~~The~~e County and city or town ~~in which~~ where the outfall is located; (3-24-22)( )
- iii. ~~The~~e Latitude and longitude, to the nearest second (or equivalent); and (3-24-22)( )
- iv. ~~The~~e Distance from shore and depth below surface; (3-24-22)( )

d. ~~A~~s Statement whether the applicant monitored ~~any of~~ the following in the past year for a combined sewer overflow: (3-24-22)( )

- i. Rainfall; ( )
- ii. Overflow volume; ( )
- iii. Overflow pollutant concentrations; ( )
- iv. Receiving water quality; ( )
- v. Overflow frequency; and ( )

- vi. ~~The n~~Number of storm events monitored in the past year; (3-24-22)( )
- e. Information ~~regarding about~~ the number of combined sewer overflows from each outfall in the past year and, if available: (3-24-22)( )
  - i. ~~The a~~Average duration per event; (3-24-22)( )
  - ii. ~~The a~~Average volume for each event; and (3-24-22)( )
  - iii. ~~The m~~Minimum rainfall that caused a combined sewer overflow event in the last year; (3-24-22)( )
- f. ~~The n~~Name of each receiving water; (3-24-22)( )
- g. ~~A d~~Description of ~~any~~ known water quality impact caused by the combined sewer overflow operations, including permanent or intermittent beach closings, permanent or intermittent shellfish bed closings, fish kills, fish advisories, other recreational loss, or the exceedance of ~~any applicable~~ state water quality standards, on the receiving water; and (3-24-22)( )
- h. ~~All a~~Applicants must provide the name, mailing address, e-mail address, telephone number, and responsibilities of ~~all~~ contractors responsible for ~~any operational operating~~ or ~~maintenance aspects of maintaining~~ the facility. (3-24-22)( )

**16. Application Requirements for New Sources and New Discharges. ( )**

- a. An applicant for an IPDES permit for a new manufacturing, commercial, mining, silviculture, or other discharge, except for a new discharge from a facility subject to the requirements of Subsection 105.08 or a new discharge of storm water associated with industrial activity ~~that is~~ subject to the requirements of Subsection 105.19, except as provided by Subsection 105.19.c., must provide the following information to the Department, using the ~~applicable~~ forms specified in Subsection 105.04.b.: (3-24-22)( )
  - i. ~~The l~~Latitude and longitude to the nearest second (~~or equivalent~~) of the expected outfall location and the name of each receiving water; (3-24-22)( )
  - ii. ~~The e~~Expected date the discharge will commence; (3-24-22)( )
  - iii. ~~The following i~~Information on flows, sources of pollution, and treatment technologies: (3-24-22)( )
    - (1) ~~A narrative describing the~~Describe treatment ~~that~~ the wastewater will receive, identifying ~~all~~ operations contributing wastewater to the effluent, stating ~~the~~ the average flow contributed by each operation, and describing ~~the~~ the ultimate disposal of ~~any~~ solid or liquid wastes not discharged; (3-24-22)( )
    - (2) ~~A l~~Line drawing of the water flow through the facility with a water balance as described in Subsection 105.07.b.; and (3-24-22)( )
    - (3) If ~~any of~~ the expected discharges will be intermittent or seasonal, ~~a description of~~ describe the frequency, duration, and maximum daily flow rate of each discharge occurrence, except for storm water runoff, spillage, or leaks; (3-24-22)( )
    - iv. If a new source performance standard promulgated under ~~the Clean Water Act section CWA Section~~ 306 or an ~~effluent limitation guideline ELG~~ applies to the applicant and is expressed ~~in terms of by~~ production or ~~an~~ other measure of operation, a reasonable calculation of the applicant's expected actual production reported in the units used in the ~~applicable effluent guideline ELG~~ or new source performance standard, as required by Subsection 303.02.b., for each of the first three (3) years. The applicant may submit alternative estimates if production is likely to vary; (3-24-22)( )

- v. ~~The e~~Effluent characteristics ~~information~~ as described in Subsection 105.16.b.; (3-24-22)( )
- vi. ~~The e~~Existence of ~~any~~ technical evaluations concerning the applicant's wastewater treatment, ~~along~~ with the name and location of similar plants of which the applicant has knowledge; (3-24-22)( )
- vii. ~~Any o~~Optional information the permittee wishes the Department to consider. (3-24-22)( )
- b. ~~An a~~Applicant ~~under this section~~ must provide the following effluent characteristics information: (3-24-22)( )
- i. Estimated daily maximum, daily average, and the source of that information for each outfall for ~~the following pollutants or parameters~~: (3-24-22)( )
- (1) Five (5)-day biochemical oxygen demand (BOD5); ( )
  - (2) Chemical oxygen demand (COD); ( )
  - (3) Total organic carbon (TOC); ( )
  - (4) Total suspended solids (TSS); ( )
  - (5) Flow; ( )
  - (6) Ammonia, as N; ( )
  - (7) Temperature, in both winter and summer; and ( )
  - (8) pH. ( )
- ii. Estimated daily maximum, daily average, and the source of that information for each outfall for all ~~the~~ conventional and nonconventional pollutants in Table IV of Appendix D to 40 CFR Part 122, if the applicant knows or ~~has reason to believe s any of~~ the pollutants will be present or if ~~any of~~ the pollutants are limited by an ~~effluent limitation guideline ELG~~ or new source performance standard either directly or indirectly through limitations on an indicator pollutant; (3-24-22)( )
- iii. Estimated daily maximum, daily average, and the source of that information for the following pollutants for each outfall, if the applicant knows or ~~has reason to believe s~~ the pollutants will be present in the discharge from ~~any~~ outfall: (3-24-22)( )
- (1) ~~All p~~Pollutants in Table IV of Appendix D to 40 CFR Part 122; (3-24-22)( )
  - (2) ~~The t~~Toxic metals, total cyanide, and total phenols listed in Table III of Appendix D to 40 CFR Part 122; (3-24-22)( )
  - (3) ~~The o~~Organic toxic pollutants in Table II of Appendix D to 40 CFR Part 122 except bis (chloromethyl) ether, dichlorofluoromethane, and trichlorofluoromethane; however, this requirement is waived for: (3-24-22)( )
    - (a) ~~An a~~Applicant with expected gross sales of less than two hundred eighty-seven thousand three hundred dollars (\$287,300) per year in 2014 dollars for the next three (3) years (~~see also~~ Subsection 105.07.o.ii.); or (3-24-22)( )
    - (b) ~~A c~~Coal mine with expected average production of less than one hundred thousand (100,000) tons of coal per year (~~see also~~ Subsection 105.07.o.i.); (3-24-22)( )
- iv. The information that 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) may be discharged if the

applicant uses or manufactures one (1) of the following compounds, or if the applicant knows or ~~has reason to believe~~<sub>s</sub> that TCDD will or may be present in an effluent: (3-24-22)( )

- (1) 2,4,5-trichlorophenoxy acetic acid (2,4,5-T); Chemical Abstract Service (CAS) #93-76-5; ( )
- (2) 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5-TP) (CAS #93-72-1); ( )
- (3) 2-(2,4,5-trichlorophenoxy) ethyl 2,2-dichloropropionate (Erbon) (CAS #136-25-4); ( )
- (4) o,o-dimethyl o-(2,4,5-trichlorophenyl) phosphorothioate (Ronnel) (CAS #299-84-3); ( )
- (5) 2,4,5-trichlorophenol (TCP) (CAS #95-95-4); or ( )
- (6) Hexachlorophene (HCP) (CAS #70-30-4); and ( )

v. The potential presence of ~~any of~~ the pollutants listed in 40 CFR Part 122, Appendix D, Table V ~~of Appendix D to 40 CFR Part 122~~ if the applicant believes these pollutants will be present in any outfall, except that quantitative estimates are not required unless ~~they are~~ already available at the time when the applicant applies for the permit. (3-24-22)( )

c. No later than twenty-four (24) months after ~~the commencement of~~ commencing discharge from the proposed facility, the applicant ~~is required to~~ must complete and submit Items V and VI of EPA application Form 2C ~~or the Department~~ equivalent. The applicant need not complete those portions of Item V or the Department equivalent requiring tests already performed and reported under the discharge monitoring requirements of its permit. (3-24-22)( )

d. The effluent characteristics requirements in Subsections 105.08.b., c., and e. that an applicant must provide estimates of certain pollutants expected to be present do not apply to pollutants present in a discharge based solely ~~as a result of~~ on their presence in intake water. ~~However, a~~ An applicant must report that a pollutant is present. ~~For purposes of this subsection, n~~ Net credits may be provided for the presence of pollutants in intake water if the requirements of Subsection 303.07 are met, and (except for discharge flow, temperature, and pH) all levels must be estimated as concentration and as total mass. (3-24-22)( )

e. The Department may waive the reporting requirements for any of the pollutants and parameters in Subsection 105.16.b. if the applicant requests a waiver with its application, or earlier, and demonstrates that information adequate to support ~~issuance of~~ issuing the permit can be obtained through less stringent reporting requirements. (3-24-22)( )

**17. Application Requirements for Treatment Works Treating Domestic Sewage (TWTDS).** All TWTDS with a currently effective NPDES or IPDES permit must submit a permit application ~~at the time of~~ during the next IPDES permit renewal ~~application~~, using EPA Form 2S ~~or another application form approved by the Department equivalent~~. New applicants must submit all information available at the time of permit application. The information may be provided by referencing information previously submitted to the Department. (3-24-22)( )

a. The Department may waive ~~any~~ requirements of this subsection if there is access to substantially identical information. The Department may also waive ~~any~~ requirements of this subsection that ~~is~~ are not of material concern for a specific permit, if approved by the EPA Regional Administrator. The waiver request to the Regional Administrator must include the Department's justification for the waiver. An EPA Regional Administrator's disapproval of ~~a~~ the Department's proposed waiver does not constitute final agency action; but does ~~provide notice to~~ notify the state and permit applicant(s) that EPA may object to ~~any~~ state-issued permit ~~issued~~ in the absence of the required information. (3-24-22)( )

b. All a Applicants must submit ~~the following information~~: (3-24-22)( )

i. The n Name, mailing address, and location of the TWTDS ~~for which~~ where the application is submitted; (3-24-22)( )

- ii. ~~The n~~Name, mailing address, e-mail address, ~~EIN or Department equivalent~~, and telephone number of the applicant, ~~and indicating~~ whether the applicant is the owner, operator, or both; (3-24-22)( )
- iii. Whether the facility is a Class I Sludge Management Facility; ( )
- iv. ~~The d~~Design flow rate in million gallons per day (MGD); (3-24-22)( )
- v. ~~The t~~Total population and ~~equivalent dwelling units~~ (EDUs) served; and (3-24-22)( )
- vi. ~~The~~TWTDS's status as federal, state, private, public, or other entity. (3-24-22)( )
- c. ~~All a~~Applicants must submit the facility's NPDES or IPDES permit number, if applicable, and a listing of ~~all other~~ federal, state, and local permits or construction approvals received or applied for under ~~any of the following programs~~:
- i. Hazardous waste management program under IDAPA 58.01.05, "Rules and Standards for Hazardous Waste"; ( )
- ii. Underground injection control (UIC) program under the Idaho Department of Water Resources UIC program at IDAPA 37.03.03, "Rules and Minimum Standards for the Construction and Use of Injection Wells"; ( )
- iii. IPDES program under IDAPA 58.01.25, "~~Rules Regulating the~~ Idaho Pollutant Discharge Elimination System ~~Program Rules~~"; (3-24-22)( )
- iv. Prevention of significant deterioration (PSD) program under IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho"; ( )
- v. Nonattainment program under IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho"; ( )
- vi. National emission standards for hazardous pollutants (NESHAPS) preconstruction approval under IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho"; ( )
- vii. Dredge or fill permits under ~~the Clean Water Act section~~ CWA Section 404; (3-24-22)( )
- viii. Sludge Management Program under IDAPA 58.01.16.650, "Wastewater Rules," and Section 380 (~~Sewage Sludge~~) of these rules; and (3-24-22)( )
- ix. Other relevant environmental permits, programs, or activities, ~~including those~~ subject to state jurisdiction, approval, and permits. (3-24-22)( )
- d. ~~All a~~Applicants must identify ~~any the~~ generation, treatment, storage, land application, or disposal of sewage sludge that occurs in Indian country. (3-24-22)( )
- e. ~~All a~~Applicants must submit a topographic map (or other map if a topographic map is unavailable) extending one (1) mile beyond property boundaries of the facility and showing ~~the following information~~: (3-24-22)( )
- i. ~~All s~~Sewage sludge management facilities, including on-site treatment, storage, and disposal sites; and (3-24-22)( )
- ii. Wells, springs, and other surface water bodies that are within one-quarter (1/4) mile of the property boundaries and listed in public records or ~~otherwise~~ known to the applicant. (3-24-22)( )
- f. ~~All a~~Applicants must submit a line drawing and/or a narrative description ~~that identifies all~~

~~identifying~~ sewage sludge management practices employed during the term of the permit, including all units used for collecting, dewatering, storing, or treating sewage sludge, the destination~~(s)~~ of ~~all~~ liquids and solids leaving each ~~such~~ unit, and all processes used for pathogen reduction and vector attraction reduction. (3-24-22)( )

~~g.~~ ~~The a~~Applicant must submit sewage sludge monitoring data ~~for the~~ quantifying pollutants ~~for which with~~ limits in sewage sludge ~~have been~~ established in 40 CFR Part 503 for the applicant's use or disposal practices on the date of permit application. (3-24-22)( )

i. The Department may require sampling for additional pollutants, as appropriate, on a case-by-case basis; ( )

ii. Applicants must provide data from ~~a minimum of at least~~ three (3) samples taken within four and one-half (4 ½) years ~~prior to before~~ the date of the permit application. Samples must ~~be representative of represent~~ the sewage sludge and ~~should be taken be collected~~ at least one (1) month apart. Existing data may be used in lieu of sampling done solely for ~~the purpose of~~ this application; (3-24-22)( )

iii. Applicants must collect and analyze samples ~~in accordance with following~~ analytical methods approved under SW-846 (Test Methods for Evaluating Solid Waste, Physical/Chemical Methods) unless an alternative ~~has been was~~ specified in an existing sewage sludge permit; and (3-24-22)( )

iv. ~~The m~~Monitoring data provided must include at least the following information for each parameter: (3-24-22)( )

(1) Average monthly concentration for all samples (mg/kg dry weight), based upon actual sample values; ( )

(2) ~~The a~~Analytical method used; and (3-24-22)( )

(3) ~~The m~~Method detection level. (3-24-22)( )

~~h.~~ If the applicant is either the person who generates sewage sludge during the treatment of domestic sewage in a treatment works or the person who derives a material from sewage sludge, the following information must be provided: ( )

i. If the applicant's facility generates sewage sludge, the total dry metric tons per three hundred sixty-five (365)-day period generated at the facility; ( )

ii. If the applicant's facility receives sewage sludge from another facility, the following information for each facility from which sewage sludge is received: ( )

(1) ~~The n~~Name, mailing address, and location of the other facility; (3-24-22)( )

(2) ~~The t~~Total dry metric tons per three hundred sixty-five (365)-day period received from the other facility; and (3-24-22)( )

(3) ~~A d~~Description of ~~any~~ treatment processes occurring at the other facility, including blending activities and treatment to reduce pathogens or vector attraction characteristics; (3-24-22)( )

iii. If the applicant's facility changes the quality of sewage sludge through blending, treatment, or other activities, the following information must be submitted: ( )

(1) Whether the Class A pathogen reduction requirements in 40 CFR 503.32(a) or the Class B pathogen reduction requirements in 40 CFR 503.32(b) are met, and a description of ~~any~~ treatment processes used to reduce pathogens in sewage sludge; (3-24-22)( )

(2) Whether ~~any of~~ the vector attraction reduction options of 40 CFR 503.33(b)(1) through (b)(8) are met, and a description of ~~any~~ treatment processes used to reduce vector attraction properties in sewage sludge; and

(3-24-22)( )

(3) ~~A d~~Description of ~~any other~~ blending, treatment, or other activities that change the quality of sewage sludge; (3-24-22)( )

iv. If sewage sludge from the applicant's facility meets the ceiling concentrations in 40 CFR 503.13(b)(1), the pollutant concentrations in 40 CFR 503.13(b)(3), the Class A pathogen requirements in 40 CFR 503.32(a), and one (1) of the vector attraction reduction requirements in 40 CFR 503.33(b)(1) through (b)(8), and if the sewage sludge is applied to the land, the applicant must provide the total dry metric tons per three hundred sixty-five (365)-day period of sewage sludge subject to this subsection that is applied to the land; ( )

v. If sewage sludge from the applicant's facility is sold or given away in a bag or other container for ~~land~~ application ~~to the land~~, and the sewage sludge is not subject to Subsection 105.17.h.iv., the applicant must provide ~~the following information~~; (3-24-22)( )

(1) ~~The t~~Total dry metric tons per three hundred sixty-five (365)-day period of sewage sludge subject to this subsection that is sold or given away in a bag or other container for ~~land~~ application ~~to the land~~; and (3-24-22)( )

(2) ~~A e~~Copy of ~~all~~ labels or notices that accompany the sewage sludge ~~being~~ sold or given away; and (3-24-22)( )

vi. If sewage sludge from the applicant's facility is provided to another person who generates sewage sludge during the treatment of domestic sewage in a treatment works or a person who derives a material from sewage sludge, and the sewage sludge is not subject to Subsection 105.17.h.iv., the applicant must provide the following information for each facility receiving the sewage sludge: ( )

(1) ~~The n~~Name, e-mail address, and mailing address of the receiving facility; (3-24-22)( )

(2) ~~The t~~Total dry metric tons per three hundred sixty-five (365)-day period of sewage sludge subject to this subsection that the applicant provides to the receiving facility; (3-24-22)( )

(3) ~~A d~~Description of ~~any~~ treatment processes occurring at the receiving facility, including blending activities and treatment to reduce pathogens or vector attraction characteristic; (3-24-22)( )

(4) ~~A e~~Copy of the notice and necessary information that the applicant is required to provide to the receiving facility under 40 CFR 503.12(g); and (3-24-22)( )

(5) If the receiving facility places sewage sludge in bags or containers for sale or give-away to application to the land, a copy of any labels or notices that accompany the sewage sludge. (3-24-22)( )

i. If sewage sludge from the applicant's facility is applied to the land in bulk form, and is not subject to Subsection 105.17.h.iv., v., or vi., the applicant must provide ~~the following information~~; (3-24-22)( )

i. ~~The t~~Total dry metric tons per three hundred sixty-five (365)-day period of sewage sludge subject to this subsection that is applied to the land; (3-24-22)( )

ii. If ~~any~~ land application sites are ~~located~~ in states other than the state where the sewage sludge is prepared, a description of how the applicant will notify the permitting authority for the state(s) where the land application sites are located; (3-24-22)( )

iii. The following information for each land application site ~~that has been~~ identified at the time of permit application: (3-24-22)( )

(1) ~~The n~~Name (if any), and location for the land application site; (3-24-22)( )

(2) ~~The site's l~~Latitude and longitude to the nearest second ~~(or equivalent)~~, and method of



determination; (3-24-22)( )

(3) ~~A~~~~t~~Topographic map (or ~~an~~other map if a topographic map is unavailable) ~~that~~ shows ~~ing~~ the site's location; (3-24-22)( )

(4) ~~The~~ ~~n~~Name, mailing address, e-mail address, and telephone number of the site owner, if different from the applicant; (3-24-22)( )

(5) ~~The~~ ~~n~~Name, mailing address, e-mail address, and telephone number of the person who applies sewage sludge to the site, if different from the applicant; (3-24-22)( )

(6) Whether the site is agricultural land, forest, a public contact site, or a reclamation site, as ~~such site types are~~ defined under 40 CFR 503.11; (3-24-22)( )

(7) ~~The~~ ~~t~~Type of vegetation grown on the site, if known, and the nitrogen requirement for ~~this~~ vegetation; (3-24-22)( )

(8) Whether ~~either of~~ the vector attraction reduction options of 40 CFR 503.33(b)(9) or (b)(10) ~~is~~ ~~are~~ met at the site, and a description of ~~any~~ procedures employed ~~at the time of~~ ~~during~~ use to reduce vector attraction properties in sewage sludge; and (3-24-22)( )

(9) Other information ~~that describes~~ ~~describing~~ how the site will be managed, as specified by the permitting authority. (3-24-22)( )

iv. The following information for each land application site ~~that has been~~ identified ~~at the time of~~ ~~during~~ permit application, if the applicant intends to apply bulk sewage sludge subject to the cumulative pollutant loading rates in 40 CFR 503.13(b)(2) to the site: (3-24-22)( )

(1) Whether the applicant ~~has~~ contacted the permitting authority in the state where the bulk sewage sludge subject to 40 CFR 503.13(b)(2) will be applied, to ascertain whether bulk sewage sludge subject to 40 CFR 503.13(b)(2) has been applied to the site on or since July 20, 1993, and if so, the name of the permitting authority and the name, phone number, and e-mail address, if available, of a contact person at the permitting authority; (3-24-22)( )

(2) Identification of facilities other than the applicant's facility that have sent, or are sending, sewage sludge subject to the cumulative pollutant loading rates in 40 CFR 503.13(b)(2) to the site since July 20, 1993, if, based on the inquiry in Subsection 105.17.i.iv(1) bulk sewage sludge subject to cumulative pollutant loading rates in 40 CFR 503.13(b)(2) has been applied to the site since July 20, 1993; ( )

v. If ~~not~~ all land application sites have ~~not~~ been identified ~~at the time of~~ ~~during~~ permit application, the applicant must submit a land application plan that, at a minimum: (3-24-22)( )

(1) Describes the geographical area covered by the plan; ( )

(2) Identifies the site selection criteria; ( )

(3) Describes how the site(s) will be managed; (3-24-22)( )

(4) Provides for advance notice to the permit authority of specific land application sites and reasonable time for the permit authority to object ~~prior to~~ ~~before~~ land ~~application of~~ ~~applying~~ the sewage sludge; and (3-24-22)( )

(5) Provides for advance public notice of land application sites in the manner prescribed by state and local law. When state or local law does not require advance public notice, it must be provided in a manner ~~reasonably calculated to apprise that informs~~ the ~~general~~ public of the planned land application. (3-24-22)( )

j. If sewage sludge from the applicant's facility is placed on a surface disposal site, the applicant must

provide ~~the following information:~~ (3-24-22)( )

i. ~~The t~~Total dry metric tons of sewage sludge from the applicant's facility that is placed on surface disposal sites per three hundred sixty-five (365)-day period; (3-24-22)( )

ii. The following information for each surface disposal site receiving sewage sludge from the applicant's facility that the applicant does not own or operate: ( )

(1) ~~The s~~Site name or number, contact person, mailing address, e-mail address, and telephone number for the surface disposal site; and (3-24-22)( )

(2) ~~The t~~Total dry metric tons from the applicant's facility per three hundred sixty-five (365)-day period placed on the surface disposal site; (3-24-22)( )

iii. The following information for each active sewage sludge unit at each surface disposal site that the applicant owns or operates: ( )

(1) ~~The n~~Name or number and ~~the~~ location of the active sewage sludge unit; (3-24-22)( )

(2) ~~The unit's l~~Latitude and longitude to the nearest second (or equivalent), and method of determination; (3-24-22)( )

(3) If not already provided, a topographic map (or other map if a topographic map is unavailable) that shows the unit's location; ( )

(4) ~~The t~~Total dry metric tons placed on the active sewage sludge unit per three hundred sixty-five (365)-day period; (3-24-22)( )

(5) ~~The t~~Total dry metric tons placed on the active sewage sludge unit over the life of the unit; (3-24-22)( )

(6) ~~A d~~Description of ~~any the~~ liner for the active sewage sludge unit, including whether it has a maximum permeability of  $1 \times 10^{-7}$  cm/sec; (3-24-22)( )

(7) ~~A d~~Description of ~~any~~ leachate collection system for the active sewage sludge unit, including the method used for leachate disposal, and ~~any~~ federal, state, and local permit number(s) for leachate disposal; (3-24-22)( )

(8) If the active sewage sludge unit is less than one hundred fifty (150) meters from the property line of the surface disposal site, the actual distance from the unit boundary to the site property line; ( )

(9) ~~The r~~Remaining capacity (dry metric tons) for the active sewage sludge unit; (3-24-22)( )

(10) ~~The d~~Date on which the active sewage sludge unit is expected to close, if ~~such~~ a date has been identified; (3-24-22)( )

(11) The following information for ~~any~~ other facility ~~y~~ies that sends sewage sludge to the active sewage sludge unit: (3-24-22)( )

(a) ~~The n~~Name, contact person, and mailing address of the facility; and (3-24-22)( )

(b) ~~Available i~~Information ~~regarding about~~ the quality of the sewage sludge received from the facility, including any treatment at the facility to reduce pathogens or vector attraction characteristics; (3-24-22)( )

(12) Whether ~~any of~~ the vector attraction reduction options of 40 CFR 503.33(b)(9) through (b)(11) ~~is~~ are met at the active sewage sludge unit, and a description of ~~any~~ procedures employed at the time of disposal to reduce vector attraction properties in sewage sludge; (3-24-22)( )

(13) The following information, as applicable to ~~any~~ ground water monitoring occurring at the active sewage sludge unit: (3-24-22)( )

(a) ~~A d~~Description of ~~any~~ ground water monitoring occurring at the active sewage sludge unit; (3-24-22)( )

(b) ~~Any available g~~Ground water monitoring data, ~~with a description of~~ describing the well locations and approximate depth to ground water; (3-24-22)( )

(c) ~~A e~~Copy of ~~any~~ ground water monitoring plan ~~that has been~~ prepared for the active sewage sludge unit; and (3-24-22)( )

(d) ~~A e~~Copy of ~~any~~ certification ~~that has been~~ obtained from a qualified ground water scientist that the aquifer has not been contaminated; and (3-24-22)( )

(14) If site-specific pollutant limits are ~~being~~ sought for the sewage sludge placed on this active sewage sludge unit, information to support ~~such a~~ the request. (3-24-22)( )

k. If sewage sludge from the applicant's facility is fired in a sewage sludge incinerator, the applicant must provide ~~the following information~~: (3-24-22)( )

i. ~~The t~~Total dry metric tons of sewage sludge from the applicant's facility that is fired in sewage sludge incinerators per three hundred sixty-five (365)-day period; (3-24-22)( )

ii. The following information for each sewage sludge incinerator firing the applicant's sewage sludge that the applicant does not own or operate: ( )

(1) ~~The n~~Name ~~and/or~~ number, contact person, mailing address, e-mail address, and telephone number of the sewage sludge incinerator; and (3-24-22)( )

(2) ~~The t~~Total dry metric tons from the applicant's facility per three hundred sixty-five (365)-day period fired in the sewage sludge incinerator; (3-24-22)( )

iii. The following information for each sewage sludge incinerator that the applicant owns or operates: ( )

(1) ~~The n~~Name ~~and/or~~ number and the location of the sewage sludge incinerator; (3-24-22)( )

(2) ~~The i~~ncinerator's ~~t~~atitude and longitude to the nearest second (or equivalent), and method of determination; (3-24-22)( )

(3) ~~The t~~Total dry metric tons per three hundred sixty-five (365)-day period fired in the sewage sludge incinerator; (3-24-22)( )

(4) Information, test data, and documentation of ongoing operating parameters indicating that compliance with the National Emission Standard for Beryllium in 40 CFR Part 61 will be achieved; ( )

(5) Information, test data, and documentation of ongoing operating parameters indicating that compliance with the National Emission Standard for Mercury in 40 CFR Part 61 will be achieved; ( )

(6) ~~The d~~ispersion factor for the sewage sludge incinerator, ~~as well as~~ and modeling results and supporting documentation; (3-24-22)( )

(7) ~~The e~~ontrol efficiency for parameters regulated in 40 CFR 503.43, ~~as well as~~ and performance test results and supporting documentation; (3-24-22)( )

(8) Information used to calculate the risk specific concentration (RSC) for chromium, including the results of incinerator stack tests for hexavalent and total chromium concentrations, if the applicant is requesting a chromium limit based on a site-specific RSC value; ( )

(9) Whether the applicant monitors total hydrocarbons (THC) or ~~C~~carbon ~~M~~monoxide (CO) in the exit gas for the sewage sludge incinerator; (3-24-22)( )

(10) ~~The~~~~t~~Type of sewage sludge incinerator; (3-24-22)( )

(11) ~~The~~~~m~~Maximum performance test combustion temperature, ~~as~~ obtained during the performance test of the sewage sludge incinerator to determine pollutant control efficiencies; (3-24-22)( )

(12) The following information on the sewage sludge feed rate used during the performance test: ( )

(a) Sewage sludge feed rate in dry metric tons per day; ( )

(b) ~~Identification of~~~~Identify~~ whether the feed rate submitted is average use or maximum design; and (3-24-22)( )

(c) ~~A description of~~~~Describe~~ how the feed rate was calculated; (3-24-22)( )

(13) ~~The~~~~i~~ncinerator stack height in meters for each stack, ~~including identification of and identify~~ whether actual or creditable stack height was used; (3-24-22)( )

(14) ~~The~~~~o~~perating parameters for the sewage sludge incinerator air pollution control device(s), ~~as~~ obtained during the performance test of the sewage sludge incinerator to determine pollutant control efficiencies; (3-24-22)( )

(15) ~~Identification of~~~~Identify~~ the monitoring equipment in place; including, (but not limited to), equipment to monitor ~~the following~~; (3-24-22)( )

(a) Total hydrocarbons or ~~C~~carbon ~~M~~monoxide; (3-24-22)( )

(b) Percent ~~O~~xygen; (3-24-22)( )

(c) Percent moisture; and ( )

(d) Combustion temperature; and ( )

(16) ~~A list of all~~~~List of~~ air pollution control equipment used with this sewage sludge incinerator. (3-24-22)( )

I. If sewage sludge from the applicant's facility is sent to a municipal solid waste landfill (MSWLF), the applicant must provide the following information for each MSWLF ~~to which sewage sludge is sent~~; (3-24-22)( )

i. ~~The~~~~n~~Name, contact person, mailing address, e-mail address location, and ~~all applicable~~ MSWLF permit numbers ~~of the MSWLF~~; (3-24-22)( )

ii. ~~The~~~~t~~Total dry metric tons per three hundred sixty-five (365)-day period sent from this facility to the MSWLF; (3-24-22)( )

iii. ~~A~~~~d~~Determination of whether the sewage sludge meets ~~applicable~~ ~~the~~ requirements for MSWLF disposal of sewage sludge ~~in a MSWLF~~, including the results of the paint filter liquids test and ~~any~~ additional requirements that apply on a site-specific basis; and (3-24-22)( )

iv. Information, if known, indicating whether the MSWLF complies with criteria ~~set forth~~ in 40 CFR Part 258. (3-24-22)( )

m. ~~All applicants must provide the n~~Name, mailing address, e-mail address, telephone number, and responsibilities of ~~all contractors responsible for any operational that operate or maintenance aspects of the maintain~~ a facility related to sewage sludge generation, treatment, use, or disposal. (3-24-22)( )

n. At the request of the Department, the applicant must provide ~~any other~~ information necessary to determine the appropriate standards for permitting under 40 CFR Part 503 and ~~any other information necessary~~ to assess the sewage sludge use and disposal practices, determine whether to issue a permit, or identify appropriate permit requirements. (3-24-22)( )

o. TWTDS facilities using or disposing of sewage sludge ~~to which where~~ a standard applicable to its sewage sludge use or disposal practices ~~have~~s been published must submit the following information on EPA Form 2S, Part I, ~~or on the Department~~ equivalent form: (3-24-22)( )

i. ~~The~~TWTDS's name, mailing address, location, and status as federal, state, private, public, or other entity; (3-24-22)( )

ii. ~~The a~~Applicant's name, address, e-mail address, telephone number, and ownership status; (3-24-22)( )

iii. ~~A d~~Description of the sewage sludge use or disposal practices. Unless the sewage sludge meets the requirements of Subsection 105.17.h.iv., the description must include the name and address of ~~any facility facilities~~ where sewage sludge is sent for treatment or disposal, and the locations ~~s~~ of ~~any~~ land application sites; (3-24-22)( )

iv. Annual amount of sewage sludge generated, treated, used or disposed (estimated dry weight basis); and ( )

v. ~~The m~~Most recent data the TWTDS may have on the quality of the sewage sludge. (3-24-22)( )

**18. Application Requirements for Municipal Separate Storm Sewer (MS4) Discharges.** The operator of a discharge from a large or medium ~~municipal separate storm sewer MS4~~ or an ~~municipal separate storm sewer that is MS4~~ designated by the Department under 40 CFR 122.26(a)(1)(v), may submit a jurisdiction-wide or system-wide permit application. Where more than one (1) public entity owns or operates an ~~municipal separate storm sewer MS4~~ within a geographic area (including adjacent or interconnected ~~municipal separate storm sewer systems MS4s~~), ~~such an~~ operators may be a co-applicant to the same application. Permit applications for discharges from large and medium ~~municipal storm sewers MS4s~~ or ~~municipal storm sewers MS4s~~ designated under 40 CFR 122.26(a)(1)(v) must include: (3-24-22)( )

a. In Part 1 of the application: ( )

i. ~~The applicants'~~Applicant's name, address, e-mail address, ~~EIN or Department equivalent,~~ telephone number of contact person, ownership status and status as a state or local government entity; (3-24-22)( )

ii. ~~A d~~Description of existing legal authority to control discharges to the ~~municipal separate storm sewer system MS4~~. When existing legal authority is not sufficient to meet the criteria provided in Subsection 105.18.b.i., the description must list additional authorities ~~as will be necessary to meet the criteria~~ and include a schedule and commitment to seek ~~such the~~ additional authority that will be needed to meet the criteria; (3-24-22)( )

iii. ~~A d~~Description of the historic use of ordinances, guidance or other controls ~~which that~~ limited the discharge of non-storm water discharges to ~~any~~ POTW serving the same area as the ~~municipal separate storm sewer system MS4~~, including ~~all of the following~~: (3-24-22)( )

- (1) ~~A~~ USGS seven point five (7.5) minute topographic map (or equivalent topographic map with a scale between one to ten thousand (~~[1:10,000]~~) and one to twenty-four thousand (~~[1:24,000]~~) if cost effective) extending one (1) mile beyond the service boundaries of the ~~municipal storm sewer system MS4~~ covered by the permit application; (3-24-22)()
- (2) ~~The~~ ~~L~~ocation of known ~~municipal storm sewer system MS4~~ outfalls discharging to waters of the United States; (3-24-22)()
- (3) ~~A~~ ~~d~~escription of the land use activities (e.g. ~~divisions~~ indicating undeveloped, residential, commercial, agricultural, and industrial uses) accompanied with estimates of population densities and projected growth for a ten (10) year period within the drainage area served by the ~~separate storm sewer MS4~~ and an estimate of an average runoff coefficient for each land use type; (3-24-22)()
- (4) ~~The~~ ~~L~~ocation and ~~a~~ description of the activities ~~of the facility~~ of each currently operating or closed municipal landfill or other treatment, storage, or disposal facility for municipal waste; (3-24-22)()
- (5) ~~The~~ ~~L~~ocation and ~~the~~ permit number of ~~any~~ known discharges to the ~~municipal storm sewer MS4~~ that ~~has~~ ~~ve~~ been issued a NPDES or IPDES permit; (3-24-22)()
- (6) ~~The~~ ~~L~~ocation of major structural controls for storm water discharge (retention basins, detention basins, ~~and~~ major infiltration devices, ~~etc.~~); and (3-24-22)()
- (7) ~~The~~ ~~i~~dentification of publicly owned parks, recreational areas, and other open lands. (3-24-22)()
- iv. ~~A~~ ~~d~~escription of the discharge including: (3-24-22)()
  - (1) Monthly mean rain and snow fall estimates (or summary of weather bureau data) and the monthly average number of storm events; (    )
  - (2) Existing quantitative data describing the volume and quality of discharges from the ~~municipal storm sewer MS4~~, including a description of the outfalls sampled, sampling procedures and analytical methods used; (3-24-22)()
  - (3) ~~A~~ ~~L~~ist of water bodies that receive discharges from the ~~municipal separate storm sewer system MS4~~, including downstream segments, lakes, and estuaries; where pollutants from the system discharges may accumulate and cause water degradation, and a ~~brief~~ description of known water quality impacts. At a minimum, the description of impacts must include ~~a description of~~ whether the water bodies receiving ~~such the~~ discharges have been: (3-24-22)()
    - (a) Assessed ~~and reported in the Clean Water Act section~~ for CWA Section 305(b) reports submitted by the Department, the basis for the assessment (evaluated or monitored), a summary of designated use support and attainment of ~~Clean Water Act CWA~~ goals (fishable and swimmable waters), and causes of nonsupport of designated uses; (3-24-22)()
    - (b) Listed under ~~the Clean Water Act section~~ CWA Section 304(l)(1)(A)(i), 304(l)(1)(A)(ii), or 304(l)(1)(B) that is not expected to meet water quality standards or water quality goals; (3-24-22)()
    - (c) Listed in state Nonpoint Source Assessments required by ~~the Clean Water Act section~~ CWA Section 319(a), without additional action to control nonpoint sources of pollution, cannot reasonably be expected to attain or maintain water quality standards due to storm sewers, construction, highway maintenance, and runoff from municipal landfills and municipal sludge adding significant pollution (or contributing to a violation of water quality standards); (3-24-22)()
    - (d) Identified and classified according to eutrophic condition of publicly owned lakes listed in state reports required under ~~the Clean Water Act section~~ CWA Section 314(a) (~~include the following: A~~ including a description of those publicly owned lakes for which uses are known to be impaired, ~~a~~ description of procedures,

processes and methods to control the discharge of pollutants from ~~municipal separate storm sewers~~ MS4s into ~~such lakes, and a description of methods and procedures to restore the lakes' quality of such lakes~~; (3-24-22)( )

- (e) Recognized by the applicant as highly valued or sensitive waters; ( )
- (f) Defined by the state as wetlands; and ( )
- (g) Found to have pollutants in bottom sediments, fish tissue, or biosurvey data. ( )

(4) Results of a field screening analysis for illicit connections and illegal dumping for either selected field screening points or major outfalls covered in the permit application. At a minimum, a screening analysis includes a narrative description, for either each field screening point or major outfall, of visual observations made during dry weather periods. If ~~any~~ flow is observed, two (2) grab samples ~~are to will~~ be collected during a twenty-four (24)-hour period with ~~a minimum period of at least~~ four (4) hours between samples. For ~~all such the~~ samples, a narrative description of the color, odor, turbidity, ~~the~~ presence of an oil sheen or surface scum ~~as well as any and~~ other relevant observations ~~regarding about~~ the potential presence of non-storm water discharges or illegal dumping must be provided. In addition, a narrative description of the results of a field analysis using suitable methods to estimate pH, total chlorine, total copper, total phenol, and detergents (or surfactants) must be provided ~~along~~ with a description of the flow rate. Where the field analysis does not involve analytical methods approved under 40 CFR Part 136, the applicant must provide a description of the method used including the name of the manufacturer of the test method ~~along~~ with the range and accuracy of the test. Field screening points are either major outfalls or other outfall points (or ~~any~~ another point of access such as manholes) randomly located throughout the storm sewer system by placing a grid over a drainage system map and identifying those cells of the grid ~~which that~~ contain a segment of the storm sewer system or major outfall. The field screening points are established using the following guidelines and criteria: (3-24-22)( )

(a) Overlay a grid system consisting of perpendicular north-south and east-west lines spaced one-quarter (1/4) mile apart on a map of the ~~municipal storm sewer system~~ MS4, creating a series of cells; (3-24-22)( )

(b) Identify ~~all~~ cells that contain a segment of the ~~storm sewer system~~ MS4; select one (1) field screening point in each cell; major outfalls may be used as field screening points; (3-24-22)( )

(c) ~~FLocate~~ field screening points ~~should be located~~ downstream of ~~any~~ sources of suspected illegal or illicit activity; (3-24-22)( )

(d) Locate field screening points to the degree practicable at the farthest manhole or other accessible location downstream in the system, within each cell; however, ~~consider the~~ safety of personnel and accessibility of the location ~~should be considered~~ in making this determination; (3-24-22)( )

(e) Hydrological conditions, total drainage area of the site, population density of the site, traffic density, age of the structures or buildings in the area, history of the area, and land use types; (3-24-22)( )

(f) For medium ~~municipal separate storm sewer systems~~ MS4s, no more than two hundred fifty (250) cells need to have identified field screening points; in large ~~municipal separate storm sewer systems~~ MS4s, no more than five hundred (500) cells need to have identified field screening points; cells established by the grid that contain no storm sewer segments will be eliminated from consideration; if fewer than two hundred fifty (250) cells in medium municipal sewers are created, and fewer than 500 in large systems are created by the overlay on the municipal sewer map, then ~~all~~ those cells ~~which that~~ contain a segment of the sewer system are subject to field screening (unless access to the separate storm sewer system is impossible); and (3-24-22)( )

(g) Large or medium ~~municipal separate storm sewer systems which~~ MS4s that are unable to utilize the procedures described in Subsection 105.18.a.iv(4)(a) through (f), because a sufficiently detailed map of the separate storm sewer systems is unavailable, must field screen no more than five hundred (500) or two hundred fifty (250) major outfalls respectively (or ~~all~~ major outfalls in the system, if less). In ~~such these~~ circumstances, the applicant must establish a grid system consisting of north-south and east-west lines spaced one-quarter (1/4) mile apart as an overlay to the boundaries of the ~~municipal storm sewer system~~ MS4, thereby creating a series of cells. The applicant

will ~~then~~ select major outfalls in as many cells as possible until at least five hundred (500) major outfalls (large municipalities) or two hundred fifty (250) major outfalls (medium municipalities) are selected; a field screening analysis must occur at these major outfalls; and (3-24-22)( )

(5) Information and a proposed program to meet the requirements of Subsection 105.18.b.iii., including at least: the location of outfalls or field screening points appropriate for representative data collection under Subsection 105.18.b.iii(1), a description of why the outfall or field screening point is representative, the seasons ~~during which~~ when sampling is intended, and a description of the sampling equipment. The proposed sampling locations of outfalls or field screening points ~~for such sampling should~~ must reflect water quality concerns (see Subsection 105.18.a.iv(3)) ~~to the extent practicable~~; (3-24-22)( )

v. ~~A~~ Description of the existing management programs to control pollutants from the ~~municipal separate storm sewer system MS4~~ including existing source controls and operation and maintenance measures for structural controls that are currently ~~being~~ implemented. ~~Such~~ The controls may include, but are not limited to: procedures to control pollution resulting from construction activities; floodplain management controls; wetland protection measures; ~~best management practices~~ BMPs for new subdivisions; and emergency spill response programs. The description may address controls established under state law ~~as well as~~ and local requirements; (3-24-22)( )

vi. ~~A~~ Description of the existing program to identify illicit connections to the ~~municipal storm sewer system MS4~~ that includes inspection procedures and methods for detecting and preventing illicit discharges and describes areas where this program has been implemented; and (3-24-22)( )

vii. ~~A~~ Description of the financial resources currently available to the municipality to complete part 2 of the permit application. A description of the municipality's budget for existing storm water programs, including an overview of the municipality's financial resources and budget, including overall indebtedness and assets, and sources of funds for storm water programs. (3-24-22)( )

b. In Part 2 of the application: ( )

i. ~~A demonstration that~~ Demonstrate the applicant can operate ~~pursuant to~~ under legal authority established by statute, ordinance, or series of contracts ~~which that~~ authorizes or enables the applicant at a minimum to: (3-24-22)( )

(1) Control through ordinance, permit, contract, order or similar means, the contribution of pollutants to the ~~municipal storm sewer MS4~~ by storm water discharges associated with industrial activity and the quality of storm water discharged from sites of industrial activity; (3-24-22)( )

(2) Prohibit through ordinance, order or similar means, illicit discharges to the ~~municipal separate storm sewer MS4~~; (3-24-22)( )

(3) Control through ordinance, order or similar means the discharge to an ~~municipal separate storm sewer MS4~~ of spills, dumping or disposal of materials other than storm water; (3-24-22)( )

(4) Control through interagency agreements among co-applicants the contribution of pollutants from a portion of the municipal system to another portion of the municipal system; ( )

(5) Require compliance with conditions in ordinances, permits, contracts or orders; and ( )

(6) ~~Carry out all~~ Complete inspection, surveillance, and monitoring procedures necessary to determine compliance and noncompliance with permit conditions including ~~the prohibition on~~ prohibiting illicit discharges to the ~~municipal separate storm sewer MS4~~. (3-24-22)( )

ii. ~~The~~ Location of ~~any~~ major outfall ~~that~~ discharges to waters of the United States that ~~was~~ were not reported under Subsection 105.18.a.iii(2). Provide an inventory, organized by watershed, of the name, ~~and~~ address, and a description (~~such as~~ Standard Industrial Classification ([SIC]) codes) ~~which that~~ best reflects the principal products or services provided by each facility ~~which that~~ may discharge, to the ~~municipal separate storm sewer MS4~~, ( )



~~and the~~ storm water associated with industrial activity; (3-24-22)( )

iii. When quantitative data for a pollutant are required under Subsection 105.18.b.iii(1)(c), the applicant must collect a sample of effluent in accordance with Subsection 105.07.c. through 105.07.m. and analyze it for the pollutant ~~in accordance with~~ following the analytical methods approved under 40 CFR Part 136. When no analytical method is approved, the applicant may use any suitable method but must provide a description of the method. The applicant must provide information characterizing the quality and quantity of discharges covered in the permit application, including: (3-24-22)( )

(1) Quantitative data from representative outfalls designated by the Department ~~and~~ developed as follows (based on information received in part 1 of the application. The Department will designate between five (5) and ten (10) outfalls or field screening points as representative of the commercial, residential and industrial land use activities of the drainage area contributing to the system or, where there are less than five (5) outfalls covered in the application, the Department will designate all outfalls): (3-24-22)( )

(a) For each outfall or field screening point designated under this subsection, samples must be collected of storm water discharges from three (3) storm events occurring at least one (1) month apart in accordance with ~~the requirements at~~ Subsection 105.07.c. through 105.07.m. (the Department may allow exemptions to sampling three (3) storm events when climatic conditions create good cause for ~~such the~~ exemptions); (3-24-22)( )

(b) A narrative description must be provided of the date and duration of the storm event(s) sampled, rainfall estimates of the storm event ~~which that~~ generated the sampled discharge and the duration between the storm event sampled and the end of the previous measurable (greater than one-tenth (0.1) inch rainfall) storm event; (3-24-22)( )

(c) For samples collected and described under Subsections 105.18.b.iii(1)(a) and (b), quantitative data will be provided for the organic pollutants listed in Table II and the pollutants listed in Table III (toxic metals, cyanide, and total phenols) of ~~40 CFR Part 122, Appendix D of 40 CFR Part 122,~~ and for the following pollutants: (3-24-22)( )

- (i) Total suspended solids (TSS); ( )
- (ii) Total dissolved solids (TDS); ( )
- (iii) Chemical oxygen demand (COD); ( )
- (iv) Five (5)-day biochemical oxygen demand (BOD5); ( )
- (v) Oil and grease; ( )
- (vi) Fecal coliform (including *E. coli*); ( )
- (vii) Enterococci (previously known as fecal streptococcus); ( )
- (viii) pH; ( )
- (ix) Total Kjeldahl nitrogen; ( )
- (x) Nitrate plus nitrite; ( )
- (xi) Total ammonia plus organic nitrogen; ( )
- (xii) Dissolved phosphorus; and ( )
- (xiii) Total phosphorus; ( )
- (d) Additional ~~limited~~ quantitative data required by the Department for determining permit conditions

(the Department may require that quantitative data be provided for additional parameters, and may establish sampling conditions such as the location, season of sample collection, form of precipitation (snow melt, rainfall) and other parameters necessary to ensure representativeness); (3-24-22)( )

(2) Estimates of the annual pollutant load of the cumulative discharges to waters of the United States from ~~an~~ identified municipal outfalls and the event mean concentration of the cumulative discharges to waters of the United States from ~~an~~ identified municipal outfalls during a storm event for BOD5, COD, TSS, dissolved solids, total nitrogen, total ammonia plus organic nitrogen, total phosphorus, dissolved phosphorus, cadmium, copper, lead, and zinc. Estimates must be accompanied by a description of the procedures for estimating constituent loads and concentrations, including ~~any~~ modelling, data analysis, and calculation methods; (3-24-22)( )

(3) A proposed schedule to provide estimates for each major outfall identified in ~~either~~ Subsection 105.18.b.ii. or 105.18.a.iii(2) of the seasonal pollutant load and of the event mean concentration of a representative storm for ~~any~~ constituents detected in ~~any~~ samples required under Subsection 105.18.b.iii(1); and (3-24-22)( )

(4) A proposed monitoring program for representative data collection for the term of the permit that describes the location of outfalls or field screening points to be sampled (or the location of instream stations), why the location is representative, the frequency of sampling, parameters to be sampled, and a description of sampling equipment; ( )

iv. A proposed management program covering the duration of the permit, that includes a comprehensive planning process ~~involving with~~ public participation and where necessary intergovernmental coordination, to reduce the discharge of pollutants to the maximum extent practicable using management practices, control techniques and system, design and engineering methods, and ~~such~~ other appropriate provisions ~~which are appropriate~~. The program must also include a description of staff and equipment available to implement the program. Separate proposed programs may be submitted by each co-applicant. Proposed programs may impose controls on a system wide basis, a watershed basis, a jurisdiction basis, or on individual outfalls. Proposed programs will be considered by the Department when developing permit conditions to reduce pollutants in discharges to the maximum extent practicable. Proposed management programs must describe priorities for implementing controls. ~~Such programs must be based on:~~ (3-24-22)( )

(1) A description of structural and source control measures, implemented during the life of the permit, to reduce pollutants ~~from in~~ runoff from commercial and residential areas that are discharged from the ~~municipal storm sewer system that are to be implemented during the life of the permit, accompanied MS4~~ with an estimate of the expected reduction of pollutant loads, and a proposed schedule for implementing ~~such the~~ controls. At a minimum, the description must include: (3-24-22)( )

(a) ~~A description of m~~Maintenance activities and a ~~maintenance~~ schedule for structural controls to reduce pollutants (including floatables) in discharges from ~~municipal separate storm sewers MS4s~~; (3-24-22)( )

(b) ~~A description of p~~Planning procedures including a comprehensive master plan to develop, implement, and enforce controls to reduce the discharge of pollutants from ~~municipal separate storm sewers which MS4s that~~ receive discharges from areas of new development and significant redevelopment. ~~Such~~The plan must address controls to reduce pollutants in discharges from ~~municipal separate storm sewers MS4s~~ after construction is completed (controls to reduce pollutants in discharges ~~from municipal separate storm sewers MS4s~~ containing construction site runoff are addressed in Subsection 105.18.b.iv(4)); (3-24-22)( )

(c) ~~A description of p~~Practices for operating and maintaining public streets, roads, and highways and procedures for reducing the impact on receiving waters of discharges from ~~municipal storm sewer systems MS4s~~, including pollutants discharged ~~as a result of from~~ deicing activities; (3-24-22)( )

(d) ~~A description of p~~Procedures to ~~assure that ensure~~ flood management projects assess the impacts on the water quality of receiving water bodies and ~~that~~ existing structural flood control devices have been evaluated to determine if retrofitting the device to provide additional pollutant removal from storm water is feasible; (3-24-22)( )

(e) ~~A description of a p~~Program to monitor pollutants in runoff from operating or closed municipal

landfills or other treatment, storage, or disposal facilities for municipal waste that identifies priorities and procedures for inspections and ~~establishing and implementing~~ establishes control measures for ~~such the~~ discharges (this program can be coordinated with the program developed under Subsection 105.18.b.iv(3)); and (3-24-22)(    )

(f) ~~A description of a p~~Program to reduce, to the maximum extent practicable, pollutants in discharges from ~~municipal separate storm sewers associated with the application of MS4s from~~ pesticides, herbicides, and fertilizer application, which will include, as appropriate, including controls such as educational activities, permits, certifications, and other measures for commercial applicators and distributors, and ~~controls for application in~~ public right-of-ways and ~~at~~ municipal facilities; (3-24-22)(    )

(2) ~~A description of a p~~Program, including a schedule, to detect and remove (or require the discharger to the ~~municipal separate storm sewer MS4~~ to obtain a separate IPDES permit for) illicit discharges and improper disposal into the storm sewer. ~~The proposed program must include, including:~~ (3-24-22)(    )

(a) ~~A description of a p~~Program, including inspections, to implement and enforce an ordinance, orders or similar means to prevent illicit discharges to the ~~municipal separate storm sewer system MS4~~. This program description must address all ~~types of~~ illicit discharges; however, the following categories of non-storm water discharges or flows must be addressed where ~~such~~ discharges are identified by the municipality as sources of pollutants to waters of the United States: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (~~as~~ defined in Section 010) to separate storm sewers, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water (program descriptions must address discharges or flows from firefighting only where ~~such the~~ discharges or flows are identified as significant sources of pollutants to waters of the United States); (3-24-22)(    )

(b) ~~A description of p~~Procedures to conduct on-going field screening activities during the life of the permit, including areas or locations that will be evaluated by ~~such the~~ field screens; (3-24-22)(    )

(c) ~~A description of p~~Procedures ~~to be followed~~ to investigate portions of the ~~separate storm sewer system MS4~~ that, based on the results of the field screen, or other appropriate information, indicate a reasonable potential of containing illicit discharges or other sources of non-storm water (~~such~~ procedures may include: sampling procedures for constituents such as fecal coliform (including *E. coli*), enterococci (previously known as fecal streptococcus), surfactants (methylen blue active substance [MBAS]), residual chlorine, fluorides and potassium; testing with fluorometric dyes; or conducting ~~in~~ storm sewer inspections where safety and other considerations allow. Such description must include the location of storm sewers ~~that have been~~ identified for ~~such~~ evaluation); (3-24-22)(    )

(d) ~~A description of p~~Procedures to prevent, contain, and respond to spills that may discharge into the ~~municipal separate storm sewer MS4~~; (3-24-22)(    )

(e) ~~A description of a p~~Program to promote, publicize, and facilitate public reporting of the presence of illicit discharges or water quality impacts associated with discharges from ~~municipal separate storm sewers MS4s~~; (3-24-22)(    )

(f) ~~A d~~Description of educational activities, public information activities, and other appropriate activities to facilitate the proper management and disposal of used oil and toxic materials; and (3-24-22)(    )

(g) ~~A d~~Description of controls to limit infiltration of seepage from municipal sanitary sewers to ~~municipal separate storm sewer systems MS4s~~ where necessary; (3-24-22)(    )

(3) ~~A d~~Description of a program to monitor and control pollutants in storm water discharges to municipal systems from municipal landfills, hazardous waste treatment, disposal and recovery facilities, industrial facilities that are subject to ~~s~~Section 313 of ~~€~~Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA), and industrial facilities that the municipal permit applicant determines are contributing a substantial pollutant loading to the ~~municipal storm sewer system MS4~~. The program must: (3-24-22)(    )

- (a) Identify priorities and procedures for inspections and establishing and implementing control measures for ~~such the~~ discharges; and (3-24-22)( )
- (b) Describe a monitoring program for storm water discharges ~~associated with the from~~ industrial facilities identified in Subsection 105.18.b.iv(3), ~~to be~~ implemented during the term of the permit, including ~~the submission of submitting~~ quantitative data on the following constituents: ~~any~~ pollutants limited in ~~effluent guidelines~~ ELGs subcategories, where applicable; ~~any~~ pollutant listed in an existing NPDES or IPDES permit for a facility; oil and grease, COD, pH, BOD5, TSS, total phosphorus, total Kjeldahl nitrogen, nitrate plus nitrite nitrogen, and ~~any~~ information on discharges required under Subsections 105.07.j. through l.; (3-24-22)( )
- (4) ~~A d~~ Description of a program to implement and maintain structural and non-structural ~~best management practices~~ BMPs to reduce pollutants in storm water runoff from construction sites to the ~~municipal storm sewer system~~ MS4 that includes: (3-24-22)( )
- (a) ~~A description of p~~ Procedures for site planning ~~which incorporate consideration of that considers~~ potential water quality impacts; (3-24-22)( )
- (b) ~~A description of r~~ Requirements for nonstructural and structural ~~best management practices~~ BMPs; (3-24-22)( )
- (c) ~~A description of p~~ Procedures for identifying priorities for ~~inspecting sites~~ site inspections and enforcing control measures ~~which that~~ consider the nature of the construction activity, topography, and ~~the~~ characteristics of soils and receiving water quality; and (3-24-22)( )
- (d) ~~A description of appropriate e~~ Educational and training measures for construction site operators; (3-24-22)( )
- v. Estimated reductions in pollutant loadings ~~of pollutants~~ from ~~discharges of municipal storm sewer constituents from municipal storm sewer systems expected~~ the constituents discharged from MS4s as the result of the municipal storm water quality management program. The assessment must also identify known impacts of storm water controls on ground water; (3-24-22)( )
- vi. For each fiscal year to be covered by the permit, a fiscal analysis of the necessary capital and operation and maintenance expenditures necessary to accomplish the activities of the programs under Subsections 105.18.b.iii. and iv. ~~Such The~~ analysis must ~~include a description of~~ describe the source of funds that are proposed to meet the necessary expenditures, including legal restrictions on the use of ~~such the~~ funds; (3-24-22)( )
- vii. ~~When~~ more than one (1) legal entity submits an application, the application must ~~contain a description of~~ describe the roles and responsibilities of each legal entity and procedures to ensure effective coordination; and (3-24-22)( )
- viii. Where requirements under Subsections 105.18.a.iv.(5), 105.18.b.ii., 105.18.b.iii.(2), and 105.18.b.iv. are not practicable or ~~are not~~ applicable, the Department may exclude ~~any~~ operator of a discharge from ~~an municipal separate storm sewer which is MS4~~ designated under 40 CFR 122.26(a)(1)(v), (b)(4)(ii) or (b)(7)(ii) from ~~such the~~ requirements. The Department may not exclude the operator of a discharge from ~~an municipal separate storm sewer MS4~~ identified in 40 CFR Part 122, Appendix F, G, H or I ~~of 40 CFR Part 122~~, from ~~any of~~ the permit application requirements under this subsection except where authorized under this section. (3-24-22)( )

**19. Application Requirements for Industrial and Construction Storm Water Discharges.**  
Application requirements for storm water discharges associated with industrial activity and storm water discharges associated with small construction activity. ( )

- a. Dischargers of storm water associated with industrial activity and ~~with~~ small construction activity ~~are required to must~~ apply for an individual permit or seek coverage under a ~~promulgated~~ storm water general permit. Facilities ~~that are~~ required to obtain an individual permit or ~~any~~ discharge of storm water ~~which that~~ the Department is evaluating for designation (~~see~~ Section 130, General Permits) under 40 CFR 122.26(a)(1)(v) and is not ~~an municipal storm sewer MS4~~, must submit an IPDES application ~~in accordance with~~ following the requirements of

Section 105 (~~Application for an Individual IPDES Permit~~) as modified and consistent with this subsection. (3-24-22)( )

b. Except as provided in Subsections 105.19.c. through e., the operator of a storm water discharge associated with industrial activity subject to this section must provide: ( )

i. ~~A~~Site map showing topography (or indicating the outline of drainage areas served by the outfall(s) covered in the application if a topographic map is unavailable) of the facility including: (3-24-22)( )

(1) Each of its drainage and discharge structures; ( )

(2) ~~The~~drainage area of each storm water outfall; (3-24-22)( )

(3) Paved areas and buildings within the drainage area of each storm water outfall, each past or present area used for outdoor storage or disposal of significant materials, each existing structural control measure to reduce pollutants in storm water runoff, materials loading and access areas, areas where pesticides, herbicides, soil conditioners, and fertilizers are applied, each of its hazardous waste treatment, storage, or disposal facilities (including each area not required to have a Resource Conservation and Recovery Act permit ~~which is used~~ for accumulating hazardous waste under 40 CFR 262.34); (3-24-22)( )

(4) Each well where fluids from the facility are injected underground; and ( )

(5) Springs, and other surface water bodies ~~which receive~~ receiving storm water discharges from the facility; (3-24-22)( )

ii. An estimate of the area of impervious surfaces (including paved areas and building roofs) and the total area drained by each outfall (within a mile radius of the facility) and a narrative description of the following: (3-24-22)( )

(1) Significant materials that in the three (3) years ~~prior to~~ before the submittal of this application have been treated, stored, or disposed in a manner to allow exposure to storm water; (3-24-22)( )

(2) Method of treatment, storage, or disposal of ~~such~~ materials; materials management practices employed, in the three (3) years ~~prior to~~ before the submittal of this application, to minimize contact by these materials with storm water runoff; (3-24-22)( )

(3) Materials loading and access areas; ( )

(4) ~~The~~Location, manner, and frequency in which pesticides, herbicides, soil conditioners, and fertilizers are applied; (3-24-22)( )

(5) ~~The~~Location and a description of existing structural and non-structural control measures to reduce pollutants in storm water runoff; and (3-24-22)( )

(6) ~~A~~description of the treatment the storm water receives, including the ultimate disposal of any solid or fluid wastes other than by discharge; (3-24-22)( )

iii. ~~A~~certification that ~~all~~ outfalls containing storm water discharges associated with industrial activity have been tested or evaluated for the presence of non-storm water discharges ~~which are~~ not covered by an IPDES permit, including a description of the method used, the date of ~~any~~ testing, and the on-site drainage points that were directly observed during a test. Tests for ~~such~~ non-storm water discharges may include smoke tests, fluorometric dye tests, and analysis of accurate schematics, ~~as well as other appropriate tests~~; (3-24-22)( )

iv. Existing information ~~regarding about~~ significant leaks or spills of toxic or hazardous pollutants at the facility that have taken place within the three (3) years ~~prior to the~~ before application submittal ~~of this application~~; (3-24-22)( )

v. Quantitative data based on samples collected during storm events and collected in accordance with Subsection 105.07 from ~~all~~ outfalls containing a storm water discharge associated with industrial activity for ~~the following parameters:~~ (3-24-22)( )

- (1) ~~Any p~~Pollutants limited in an ~~effluent guideline~~ ELG to which the facility is subject; (3-24-22)( )
- (2) ~~Any p~~Pollutants listed in the facility's NPDES or IPDES permit for its process wastewater (if the facility is operating under an existing NPDES or IPDES permit); (3-24-22)( )
- (3) Oil and grease, pH, BOD5, COD, TSS, total phosphorus, total Kjeldahl nitrogen, and nitrate plus nitrite nitrogen; ( )
- (4) ~~Any i~~Information on the discharge required under Subsections 105.07.j. through l.; (3-24-22)( )
- (5) Flow measurements or estimates of the flow rate, and the total amount of discharge for the storm event ~~(s)~~ sampled, and the method of flow measurement or estimation; and (3-24-22)( )
- (6) ~~The d~~Date and duration (in hours) of ~~the~~ storm event ~~(s)~~ sampled, rainfall measurements or estimates of the storm event (in inches) ~~which that~~ generated the sampled runoff and the duration (in hours) between the storm event sampled and the end of the previous measurable (greater than one-tenth ~~(0.1)~~ inch rainfall) storm event; (3-24-22)( )

vi. Operators of a discharge ~~which is~~ composed entirely of storm water are exempt from the requirements of Subsections 105.07.b., 105.07.a.i(2) through (5), 105.07.a.ii., 105.07.a.iii., 105.07.g., 105.07.h., 105.07.i., and 105.07.m.; and (3-24-22)( )

vii. Operators of new sources or new discharges (~~as defined in~~ Section 010, Definitions) ~~which are~~ composed in part or entirely of storm water must include estimates for the pollutants or parameters listed in Subsection 105.19.b.v. instead of actual sampling data, along with the source of each estimate. Operators of new sources or new discharges composed in part or entirely of storm water must provide quantitative data for the parameters listed in Subsection 105.19.b.v. within two (2) years after ~~commencement of~~ discharge ~~commences~~, unless ~~such the~~ data has already been reported under the monitoring requirements of the IPDES permit for the discharge. Operators of a new source or new discharge ~~which is~~ composed entirely of storm water are exempt from the requirements of Subsections 105.16.a.iii.(2) and (3), and 105.16.b. (3-24-22)( )

c. ~~An e~~Operator of an existing or new storm water discharge ~~that is~~ associated with industrial activity solely under 40 CFR 122.26(b)(14)(x) or ~~is~~ associated with small construction activity solely under 40 CFR 122.26 (b)(15), is exempt from the requirements of Subsection 105.07 and Subsection 105.19.b. ~~Such~~The operator must provide a narrative description of: (3-24-22)( )

- i. ~~The l~~Location (including a map) and the nature of the construction activity; (3-24-22)( )
- ii. ~~The t~~Total area of the site and the area of the site that is expected to undergo excavation during the life of the permit; (3-24-22)( )
- iii. Proposed measures, including ~~best management practices~~ BMPs, to control pollutants in storm water discharges during construction, including a ~~brief~~ description of ~~applicable~~ state and local erosion and sediment control requirements; (3-24-22)( )
- iv. Proposed measures to control pollutants in storm water discharges that will occur after construction operations ~~have been~~ are completed, including a ~~brief~~ description of ~~applicable~~ state or local erosion and sediment control requirements; (3-24-22)( )

v. ~~An e~~Estimate of the runoff coefficient of the site and the increase in impervious area after the construction addressed in the permit application is completed, the nature of fill material and existing data describing

the soil or the quality of the discharge; and (3-24-22)( )

vi. ~~The n~~Name of the receiving water. (3-24-22)( )

d. ~~The o~~Operator of an existing or new discharge composed entirely of storm water from an oil or gas exploration, production, processing, or treatment operation, or transmission facility is not required to submit a permit application ~~in accordance with~~ under Subsection 105.19.b., unless the facility: (3-24-22)( )

i. ~~Has had a d~~Discharge of storm water occurred resulting in ~~the discharge of~~ a reportable quantity for which notification is or was required ~~pursuant to~~ under 40 CFR 117.21 or 40 CFR 302.6 at any time since November 16, 1987; or (3-24-22)( )

ii. ~~Has had a d~~Discharge of storm water occurred resulting in ~~the discharge of~~ a reportable quantity for which notification is or was required ~~pursuant to~~ under 40 CFR 110.6 at any time since November 16, 1987; or (3-24-22)( )

iii. Contributes to a violation of a water quality standard. ( )

e. ~~The o~~Operator of an existing or new discharge composed entirely of storm water from a mining operation is not required to submit a permit application unless the discharge ~~has come into~~ was in contact with, ~~any~~ overburden, raw material, intermediate products, finished product, byproduct, or waste products located on the site ~~of such operations~~. (3-24-22)( )

f. Applicants must provide ~~such other~~ information the Department may ~~reasonably~~ require under Subsection 105.07.o. to determine whether to issue a permit and may require ~~any facility~~ facilities subject to Subsection 105.19.c. to comply with Subsection 105.19.b. (3-24-22)( )

**20. Requirements for Integrated Plans. Integrated planning is a voluntary process for municipalities to identify efficiencies from separate wastewater and storm water programs to best prioritize capital investments and achieve human health and water quality objectives.** ( )

**a. The Department may incorporate integrated plans into IPDES permits, compliance agreement schedules, consent orders, and compliance schedule orders.** ( )

**b. Integrated plans considered by the Department should contain:** ( )

**i. A description of the water quality, human health, and regulatory issues to be addressed in the plan:** ( )

**ii. A description of the existing wastewater and storm water systems under consideration and a summary of information describing the systems' current performance:** ( )

**iii. A communications plan describing how community stakeholders are given consideration in the planning and implementation of the plan:** ( )

**iv. A process for identifying, evaluating, and selecting alternatives and proposing implementation schedules:** ( )

**v. A process for evaluating the performance of projects identified in the plan; and** ( )

**vi. A process for identifying, evaluating, and selecting proposed new projects or modifications to ongoing or planned projects based on changed circumstances.** ( )

## 106. INDIVIDUAL PERMIT APPLICATION REVIEW.

**01. Completeness Criteria.** The Department will not ~~begin~~ processing or issue an individual IPDES permit application before receiving a complete application. ~~An application is complete when an~~ The application form

and ~~any~~ supplemental information are completed ~~and when~~ submitted to the Department's satisfaction. The Department will not consider a permit application to be complete until ~~all~~ applicable fees required under Section 110 (~~Permit Fee Schedule for IPDES Permitted Facilities~~) are paid. (3-24-22)( )

**02. Sufficiently Sensitive Methods.** Except as specified in Subsection 106.02.c., a permit application ~~shall will~~ not be considered complete unless all required quantitative data are collected ~~in accordance with following~~ sufficiently sensitive analytical methods approved under 40 CFR Part 136 or required under 40 CFR Parts 400 through 471 and 501 through 503. (3-24-22)( )

a. A method approved under 40 CFR Part 136 or required under 40 CFR Parts 400 through 471 and 501 through 503 is "sufficiently sensitive" when: ( )

i. The method minimum level (ML) is at or below the level of the ~~applicable~~ water quality criterion for the measured pollutant or pollutant parameter; or (3-24-22)( )

ii. The method ML is above the ~~applicable~~ water quality criterion, but the amount of the pollutant or pollutant parameter in a facility's discharge is high enough that the method detects and quantifies the level of the pollutant or pollutant parameter in the discharge; or (3-24-22)( )

iii. The method has the lowest ML of the analytical methods approved under 40 CFR Part 136 or required under 40 CFR Parts 400 through 471 and 501 through 503 for the measured pollutant or pollutant parameter. ( )

b. For Subsection 106.02.a., consistent with 40 CFR Part 136, applicants ~~have the option of providing may opt to provide~~ matrix- or sample- specific ~~minimum levels MLs~~ rather than the published levels. ~~Further, where~~ When an applicant can demonstrate ~~that~~, despite a good faith effort to use a method that ~~would otherwise meets~~ the definition of "sufficiently sensitive," the analytical results are not consistent with the QA/QC specifications for that method, then the Department may determine ~~that~~ the method is not performing adequately and the applicant ~~should will~~ select a different method from the remaining EPA-approved methods that is sufficiently sensitive consistent with Subsection 106.02.a. ~~Where~~ ~~en~~ no other EPA-approved methods exist, the applicant ~~should will~~ select a method consistent with Subsection 106.02.c. (3-24-22)( )

c. When there is no analytical method ~~that has been~~ approved under 40 CFR Part 136, required under 40 CFR Parts 400 through 471 and 501 through 503, and is not otherwise required by the Department, the applicant may use any suitable method but ~~shall provide a description of~~ ~~must describe~~ the method. When selecting a suitable method, other factors such as a method's precision, accuracy, or resolution, may be considered when assessing the performance of the method. (3-24-22)( )

**03. Independence.** The Department ~~shall will~~ judge the completeness of any IPDES permit application independently of ~~any~~ other permit application or permit. (3-24-22)( )

**04. Schedule.** The Department will notify an applicant in writing whether the application is ~~deemed~~ complete ~~for purposes of this section~~ within: (3-24-22)( )

a. Thirty (30) days if the application is for a new source or new discharger under the IPDES program, or ( )

b. Sixty (60) days if the application is for an existing source or sludge-only facility. ( )

**05. Additional Information.** Notification that an application is complete does not preclude the Department from requiring the applicant submit additional information for the Department's use in processing the application. This additional information may only be requested when necessary to clarify, modify, or supplement previously submitted material. ( )

a. Requests for additional information will not render an application incomplete. ( )

b. ~~If~~ ~~While processing the application, if~~ the Department decides ~~that~~ a site visit is necessary ~~for any~~



~~reason in connection with the processing of an application~~, the Department ~~shall~~ will notify the applicant and ~~schedule~~ a date ~~shall be scheduled~~. Failure to schedule or refusal of a requested site visit are grounds for permit denial. (3-24-22)( )

c. The applicant's failure or refusal to correct deficiencies, or supply requested information may result in permit denial, and appropriate enforcement actions may be initiated, if warranted. ( )

**06. Incomplete Due to Waiver Denial.** The Department will not consider a permit application ~~to be~~ complete if the Department waived application requirements under Subsection 105.11 or 105.17 and the EPA has disapproved the waiver. (3-24-22)( )

**07. Impact of Waiver Delay.** If a person required to reapply for a permit submits a waiver request to the Department more than two hundred ten (210) days before an existing permit expires, and the EPA does not disapprove the waiver request one hundred eighty-one (181) days before the permit expires, the Department will consider the permit application ~~to be~~ complete without the information ~~that is the~~ subject ~~of~~ to the waiver request. (3-24-22)( )

**08. Application Completeness Date.** The ~~application is~~ completeness date of an application is the date on which when the Department notifies the applicant ~~that the application is complete~~. (3-24-22)( )

**107. DECISION PROCESS.**

After the Department has determined ~~that~~ a permit application is complete, the Department will decide whether to tentatively deny the application, or prepare an IPDES draft permit. (3-24-22)( )

**01. Application Denial.** If the Department decides to tentatively deny the application: ( )

a. A notice of intent to deny the permit application ~~shall~~ will be issued. A notice of intent to deny the permit application ~~is a type of draft permit which~~ follows the same procedures as ~~any~~ draft permit and ~~shall~~ will be made available for public comment, ~~and the Department shall~~ The Department will give notice of opportunity for a public meeting, as specified in Section 109 ~~(Public Notification and Comment)~~; (3-24-22)( )

b. The Department ~~shall~~ will generate a response to public comment; and (3-24-22)( )

c. Issue a final decision. ~~The final decision that~~ may: (3-24-22)( )

i. ~~Be to w~~ Withdraw the notice of intent to deny the application, and proceed to prepare a draft permit and fact sheet as defined in Section 108 ~~(Draft Permit and Fact Sheet)~~; or (3-24-22)( )

ii. Confirm the decision to deny the application. ( )

d. The applicant may appeal the final decision to deny the application by adhering to the requirements of Section 204 ~~(Appeals Process)~~. (3-24-22)( )

**02. Draft Permit.** If the Department decides to generate a draft permit and fact sheet, it will comply with Section 108 ~~(Draft Permit and Fact Sheet)~~. (3-24-22)( )

a. Upon completion of the draft permit and fact sheet, the Department ~~shall~~ will issue a public notification as required in Subsection 109.01. (3-24-22)( )

b. An opportunity for the public to comment and request a public meeting ~~shall~~ will be provided. (3-24-22)( )

c. The Department ~~shall~~ will generate a response to public comment as stipulated in Subsection 109.03. (3-24-22)( )

**03. Proposed Permit.** After the close of the public comment period on a draft permit, the Department will make appropriate changes in response to comments, and generate a proposed permit and fact sheet.

(3-24-22)( )

**04. Final Permit.** After the ~~close of the~~ public comment period closes on a draft permit, and after ~~receipt of receiving~~ comments on the proposed permit, ~~if any,~~ from EPA, the Department ~~shall~~ will issue a final permit decision and fact sheet. ~~A~~The final permit decision ~~means a final decision to~~ will issue, deny, modify, revoke and reissue, or terminate a permit. (3-24-22)( )

**a.** The Department ~~shall~~ will notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. (3-24-22)( )

**b.** A final permit decision shall become effective twenty-eight (28) days after the service of notice of the decision unless: ( )

**i.** A later effective date is specified in the decision; or ( )

**ii.** A Petition for Review is filed with the Department as specified in Section 204 ~~(Appeals Process)~~. (3-24-22)( )

## 108. DRAFT PERMIT AND FACT SHEET.

**01. Draft Permit.** ( )

**a.** If the Department decides to prepare a draft permit, it ~~shall~~ will contain ~~the following information:~~ (3-24-22)( )

**i.** ~~All e~~Conditions established under Section 300 ~~(Conditions Applicable to All Permits)~~ (3-24-22)( )

**ii.** ~~All e~~Conditions for specific categories established under Section 301 ~~(Permit Conditions for Specific Categories)~~ and 40 CFR 122.42(e). (3-24-22)( )

**iii.** ~~All e~~Conditions established under Section 302 ~~(Establishing Permit Provisions)~~; (3-24-22)( )

**iv.** ~~All e~~Conditions established under Section 303 ~~(Calculating Permit Provisions)~~; (3-24-22)( )

**v.** ~~All m~~Monitoring requirements established under Section 304 ~~(Monitoring and Reporting Requirements)~~; (3-24-22)( )

**vi.** Schedules of compliance established under Section 305 ~~(Compliance Schedules)~~; and (3-24-22)( )

**vii.** ~~Any~~Approved variances ~~that are approved.~~ (3-24-22)( )

**b.** General and individual proposed permits ~~shall~~ will be available to the EPA Region 10 Administrator for comment as specified in Subsections 107.03 (Proposed Permit) and 107.04 (Final Permit). (3-24-22)( )

**02. Fact Sheets.** ( )

**a.** A fact sheet containing the information required in Subsection 108.02.b. must accompany the draft permit prepared for: ( )

**i.** ~~A m~~Major IPDES facility or activity; (3-24-22)( )

**ii.** ~~A~~Class I sludge management facility; (3-24-22)( )

**iii.** ~~An~~IPDES general permit; (3-24-22)( )

- iv. ~~A p~~Permit that incorporates a variance or requires an explanation under Subsection 108.02.b.ix. through 108.02.b.x.; (3-24-22)( )
- v. ~~A p~~Permit that includes a sewage sludge land application plan under 40 CFR 501.15(a)(2)(ix); and (3-24-22)( )
- vi. ~~A p~~Permit that the Department finds is the subject of wide-spread public interest or raises major issues. (3-24-22)( )
- b. A fact sheet must ~~briefly set out~~ describe the principal facts and ~~the~~ significant factual, legal, methodological, and policy questions considered in preparing the draft permit and must include, if applicable, ~~the following information~~: (3-24-22)( )
- i. ~~A b~~Brief description of the type of facility or activity that is the subject of the draft permit; (3-24-22)( )
- ii. ~~The t~~Type and quantity of wastes, fluids, or pollutants that are proposed to be or are being treated, stored, disposed of, injected, emitted, or discharged; (3-24-22)( )
- iii. ~~A b r i e f s~~Summary of the basis for the draft permit conditions, including references to applicable statutes or regulations and appropriate supporting references to the administrative record; (3-24-22)( )
- iv. Reasons for the Department's tentative decision on ~~any~~ requested variances or alternatives to required standards; (3-24-22)( )
- v. ~~A d~~Description of the procedures for reaching a final decision on the draft permit, including: (3-24-22)( )
- (1) ~~The b~~Beginning and ending dates of the comment period under Subsection 109.02 and the address where comments ~~should be~~ are submitted; (3-24-22)( )
- (2) ~~The p~~Procedure for requesting a public meeting and the nature of that meeting; and (3-24-22)( )
- (3) ~~Any o~~Other procedures by which the public may participate in the final decision; (3-24-22)( )
- vi. ~~The n~~Name and telephone number of a person to contact for additional information; (3-24-22)( )
- vii. ~~The j~~Justification for waiver of ~~any~~ application requirements under Section 105-~~(Application for an Individual IPDES Permit)~~ for new and existing POTWs; (3-24-22)( )
- viii. ~~Any e~~Calculations or other ~~necessary~~ explanations of the derivation of specific effluent limitations and conditions, including a citation to the ~~applicable effluent limitation guideline~~ ELG or performance standard as required by Section 302-~~(Establishing Permit Provisions)~~, and reasons why the effluent limitations and conditions ~~are applicable~~, or an explanation of how any ~~alternate effluent limitation~~ was developed; (3-24-22)( )
- ix. If applicable, an explanation of why the draft permit contains ~~the following conditions or waivers~~: (3-24-22)( )
- (1) Limitation to control toxic pollutants under Subsection 302.07; (3-24-22)( )
- (2) Limitations on internal waste streams under Section 304-~~(Monitoring and Reporting Requirements)~~; (3-24-22)( )
- (3) Limitation on indicator pollutants under 40 CFR 125.3(g); (3-24-22)( )

- (4) Limitations established on a case-by-case basis under 40 CFR 125.3 (c)(2) or (c)(3) or pursuant to the Clean Water Act section CWA Section 405(d)(4); (3-24-22)( )
- (5) Limitations to meet the criteria for permit issuance under Subsection 103.07; or (3-24-22)( )
- (6) Waivers from monitoring requirements granted under Subsection 302.03; ( )
- x. For a draft permit for a treatment works owned by a person other than a state or municipality, an explanation of the Department’s decision on regulation of users under Subsection 302.15; ( )
- xi. If appropriate, a sketch or detailed description of the location of the discharge or regulated activity described in the application; and (3-24-22)( )
- xii. For permits that include a sewage sludge land application plan under 40 CFR 501.15(a)(2)(ix), a brief description of how each of the required elements of the land application plan are addressed in the permit. (3-24-22)( )

**109. PUBLIC NOTIFICATION AND COMMENT.**

- 01. Public Notification.** ( )
- a.** The Department will give notice to the public that: ( )
  - i. A draft permit has been prepared under Subsection 108.01; ( )
  - ii. The Department intends to deny a permit application under Subsection 107.01; ( )
  - iii. A public meeting is scheduled; or ( )
  - iv. An IPDES new source determination has been made. ( )
- b.** A public notice may describe more than one (1) permit or permit action. ( )
- c.** The Department will allow at least thirty (30) days for public comment on the items in the notice, and will provide at least thirty (30) days’ notice before the public meeting. Notice of the draft permit and the meeting may be combined and given at the same time. (3-24-22)( )
- d.** Public notice that a draft permit has been prepared; and any public meeting on the draft permit must will be given by the following methods: (3-24-22)( )
  - i. By mailing a copy of the notice to the following persons, unless any person entitled to receive notice under this subsection waives that person’s the right to receive notice for any classes and categories of permits: (3-24-22)( )
    - (1) The applicant, unless there is no applicant for an IPDES general permit; ( )
    - (2) Any other agency (including EPA when the draft permit is prepared by the state) that the Department knows has issued or is required to issue a permit for the same facility or activity under the following laws and programs: (3-24-22)( )
      - (a) Resource Conservation and Recovery Act, under IDAPA 58.01.05, “Rules and Standards for Hazardous Waste”; ( )
      - (b) Underground Injection Control (UIC) Program under Idaho Department of Water Resources as authorized under Idaho Code Title 42 Chapter 39 and regulated under IDAPA 37.03.03, “Rules and Minimum Standards for the Construction and Use of Injection Wells”; ( )

- (c) Clean Air Act, under IDAPA 58.01.01, “Rules for the Control of Air Pollution in Idaho”; ( )
- (d) Idaho Pollution Discharge Elimination System Program, under IDAPA 58.01.25, “~~Rules Regulating the~~ Idaho Pollutant Discharge Elimination System ~~Program~~ Rules”; or (3-24-22)( )
- (e) Sludge Management Program, under IDAPA 58.01.16.650, “Wastewater Rules”; and ( )
- (f) Dredge and Fill Permit Program (~~Clean Water Act section~~ CWA Section 404); (3-24-22)( )
- (3) Affected federal and state agencies with jurisdiction over fish, shellfish, wildlife, and other natural resources, state historic preservation officers, and any affected Indian tribes; (3-24-22)( )
- (4) ~~Any s~~ State agency responsible for plan development under ~~the Clean Water Act sections~~ CWA Sections 208(b)(2), 208(b)(4), or 303(e), and the ~~United States~~ Army Corps of Engineers, the ~~United States~~ Fish and Wildlife Service, and ~~the~~ National Marine Fisheries Service; (3-24-22)( )
- (5) ~~Any u~~ User identified in the permit application of a privately owned treatment works; (3-24-22)( )
- (6) Persons on a mailing list developed by: ( )
- (a) Recording those who request in writing to be on the list; ( )
- (b) Soliciting persons for area lists from participants in past permit proceedings in that area; and ( )
- (c) Publishing notice of the opportunity to be on the mailing list on the Department’s website and through periodic publication in the local press and in regional and state-funded newsletters, environmental bulletins, state law journals, or similar publications. The Department may update the mailing list ~~from time to time~~ by requesting written indication of continued interest from those listed, and may delete from the list the name of ~~any~~ person who fails to respond to the Department’s request; (3-24-22)( )
- (7) ~~Any~~ unit of local government ~~having with~~ jurisdiction over the area where the facility is proposed to be located; and (3-24-22)( )
- (8) Each state agency ~~having any with~~ authority under state law ~~with respect to the~~ for construction or operation of the facility; (3-24-22)( )
- ii. For a major facility permit, ~~a~~ general permit, and ~~a~~ permit that includes sewage sludge land application plans, by publishing a notice in a daily or weekly newspaper within the area affected by the facility or activity; and (3-24-22)( )
- iii. By ~~any other~~ method ~~reasonably calculated to give actual~~ that provides notice of the action ~~in question to the~~ persons potentially affected by it, including press releases or ~~use of any an~~ other forum or media to elicit public participation. For IPDES major permits and general permits, in lieu of the requirement for publication of a notice in a daily or weekly newspaper, the Department may publish all notices of activities described in Subsection 109.01.a. to the Department’s website. If the Department selects this option for a draft permit, in addition to meeting the requirements in Subsection 109.01.e., the Department will post the draft permit and fact sheet on the website for the duration of the public comment period. The Department will ensure the methods of public notice effectively inform ~~all~~ interested communities and allow access to the permitting process for those seeking to participate. (3-24-22)( )
- e. A public notice issued under this subsection ~~must will~~ contain at least ~~the following information:~~ (3-24-22)( )
- i. Name and address of the office processing the permit action for which notice is ~~being~~ given and

- where comments may be submitted; (3-24-22)( )
- ii. Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit, except ~~in the case of~~ for IPDES draft general permits; (3-24-22)( )
  - iii. ~~A brief d~~Description of the business conducted at the facility or activity described in the permit application, or for general permits, when there is no application, in the draft permit; (3-24-22)( )
  - iv. Name, address, and telephone number of a person from whom interested persons may obtain ~~further~~ information, including copies of the draft permit or draft general permit, fact sheet, and ~~the~~ application; (3-24-22)( )
  - v. ~~A brief d~~Description of the comment and public meeting procedures required by this subsection and the time and place of any meetings that will be held; if no meeting has ~~already~~ been scheduled, ~~a statement of~~ procedures to request a meeting and ~~other procedures~~ by which the public may participate in the final permit decision; (3-24-22)( )
  - vi. ~~A general d~~Description of the location of each existing or proposed discharge point and the name of the receiving water; (3-24-22)( )
  - vii. ~~The s~~Sludge use and disposal practices and the location of each sludge TWTDS and use or disposal sites known ~~at the time of~~ during permit application; (3-24-22)( )
  - viii. ~~A d~~Description of requirements applicable to cooling water intake structures under ~~the Clean Water Act section CWA Section~~ 316(b), in accordance with 40 CFR 125.80 through 89, 125.90 through 99, and 125.130 through 139; and (3-24-22)( )
  - ix. ~~Directions~~Link to the Department's website where interested parties can obtain copies of the draft permit, fact sheet, and the permit application, if any; and (3-24-22)( )
- f. In addition to the information required by Subsection 109.01.e., the public notice for a draft permit for a discharge for which a request has been filed under the ~~Clean Water Act section CWA Section~~ 316(a) ~~must will~~ include: (3-24-22)( )
- i. ~~A s~~Statement that the thermal component of the discharge is subject to effluent limitations under ~~the Clean Water Act sections CWA Sections~~ 301 or 306, and a ~~brief~~ description, including a quantitative statement, of the thermal effluent limitations proposed under ~~the Clean Water Act sections CWA Section~~ 301 or 306; (3-24-22)( )
  - ii. ~~A s~~Statement that a request has been filed under ~~the Clean Water Act section CWA Section~~ 316(a), that alternative less stringent effluent limitations may be imposed on the thermal component of the discharge under ~~the Clean Water Act section CWA Section~~ 316(a), and a ~~brief~~ description, including a quantitative statement, of the alternative effluent limitations, if any, included in the request; and (3-24-22)( )
  - iii. If the applicant has filed an early screening request under 40 CFR 125.72 for a variance under ~~the Clean Water Act section CWA Section~~ 316(a), a statement that the applicant has submitted ~~that an~~ early screening request. (3-24-22)( )
- g. In addition to the ~~general~~ public notice described in Subsection 109.01.e., the public notice of a meeting ~~under this section~~ must contain ~~the following information~~: (3-24-22)( )
- i. Reference to the date of previous public notices relating to the permit; ( )
  - ii. Date, time, and place of the meeting; and ( )
  - iii. ~~A brief d~~Description of the nature and purpose of the meeting, including the applicable rules and procedures. (3-24-22)( )

h. The Department will mail a copy of the ~~general~~ public notice described in Subsection 109.01.e. to ~~all~~ persons identified in Subsections 109.01.d.i.(1), (2), (3), and (4). (3-24-22)( )

i. The Department will hold a public meeting whenever the Department finds, ~~on the basis of~~ based on requests, a significant degree of public interest in a draft permit. The Department may also hold a public meeting if a meeting might clarify one (1) or more issues involved in the permit decision or for ~~another good~~ reason in the Department's discretion. (3-24-22)( )

**02. Public Comment. ( )**

a. During the public comment period, ~~any~~ interested person may submit written comments on the draft permit. Written comments must be submitted to the person identified in the notice and as specified in Subsection 109.01.e. (3-24-22)( )

b. During the public comment period, ~~any~~ interested person may request a public meeting if no public meeting has been scheduled. The Department will schedule and hold a public meeting if the Department determines that significant public interest exists in the draft permit. (3-24-22)( )

i. A request for a public meeting must be in writing and ~~be~~ submitted to the Department within fourteen (14) days after the date of the public notice required by Subsection 109.01. (3-24-22)( )

ii. If a public meeting is held ~~for the purpose of receiving~~ to receive comments, the Department will make an audio recording or hire a court reporter to record the meeting and will prepare a transcript of the meeting if an appeal is filed. (3-24-22)( )

c. If, during the comment period for an IPDES draft permit, the district engineer of the ~~United States~~ Army Corps of Engineers advises the Department in writing that anchorage and navigation of ~~any of~~ the waters of the United States ~~would will~~ be substantially impaired by ~~the granting of~~ a permit, the Department will deny the permit and notify the applicant of the denial. If the district engineer advises the Department that imposing specified conditions upon the permit is necessary to avoid ~~any~~ substantial impairment of anchorage or navigation, the Department will include the specified conditions in the permit. Review or appeal of denial of a permit or of conditions specified by the district engineer must be sought through the ~~applicable~~ procedures of the ~~United States~~ Army Corps of Engineers and not through the state procedures. If a court of competent jurisdiction stays the conditions or if ~~applicable~~ procedures of the ~~United States~~ Army Corps of Engineers result in a stay of the conditions, those conditions must be considered stayed in the IPDES permit for the duration of the stay. (3-24-22)( )

d. If, during the comment period for an IPDES draft permit, the ~~United States~~ Fish and Wildlife Service, the National Marine Fisheries Service, or ~~any another~~ state or federal agency with jurisdiction over fish, wildlife, or public health advises the Department in writing that the imposition of specified conditions upon the permit is necessary to avoid substantial impairment of fish, shellfish, or wildlife resources, the Department may include the specified conditions in the permit to the extent the Department determines they are necessary to comply with the provisions of the ~~Clean Water Act~~ CWA. (3-24-22)( )

e. In some cases, the Department may confer with one (1) or more of the agencies referred to in Subsections 109.02.c. and 109.02.d. before issuing a draft permit and may ~~set out~~ state an agency's view in the fact sheet or the draft permit. (3-24-22)( )

f. The Department will consider all comments in making the final decision and will answer the comments as provided in this subsection. ( )

g. Requests for extending a public comment period must be received in writing by the Department ~~prior to~~ before the last day of the comment period. (3-24-22)( )

h. After ~~the close of~~ the public comment period closes and ~~prior to the issuance of~~ before issuing the final permit decision, the Department will ~~afford allow~~ the permit applicant ~~an opportunity~~ to provide additional information to respond to public comments. ~~In addition, in order to~~ To respond to comments, the Department may

request the applicant provide additional information. (3-24-22)( )

**03. Response to Comments.** When ~~the Department issues~~ issuing a final permit, the Department will issue a response to comments that will be available to the public. The response must: (3-24-22)( )

a. Specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and ( )

b. ~~Briefly describe~~ Briefly describe and respond to ~~all~~ significant comments on the draft permit raised during the public comment period; or ~~during any~~ meetings. (3-24-22)( )

**110. ~~FEE SCHEDULE FOR IPDES PERMITTED FACILITIES~~ FEE SCHEDULE.**

~~01. Effective Date.~~ Annual fees must be paid for each fee year beginning ~~one (1) year after the effective date of the IPDES program for the affected category of discharger and continuing for each succeeding year.~~ (3-24-22)

~~021.~~ **Fee Schedule.** ( )

a. Publicly and privately owned treatment works, and ~~any~~ other dischargers designated by the Department (Subsection 105.11.a.), must pay an annual fee based on the number of ~~equivalent dwelling units (EDUs)~~. The fee is \$1.74 per EDU. EDUs and the appropriate annual fee will be calculated according to the definition of EDUs in Section 010 by the following: (3-24-22)( )

i. The Department calculates facility EDUs; or ( )

ii. Existing facilities may annually report to the Department the number of EDUs served; or ( )

iii. New facilities may report to the Department the number of EDUs to be served, based on the facility planning design as part of the IPDES permit application. ( )

b. ~~All other~~ All other permitted IPDES dischargers, ~~excluding small scale suction dredges~~, must pay an annual fee, an application fee, or both according to ~~the following schedule~~:

Permit Type	Application	Annual
<b>Non-POTW Individual Permits</b>		
Major	\$0	\$13,000
Minor	\$0	\$4,000
<b>Storm Water General Permits</b>		
<b>Construction (CGP)</b>		
1-10 acres <sup>1</sup>	\$200	\$0
>10-50 acres	\$400	\$75
>50-100 acres	\$750	\$100
>100-500 acres	\$1,000	\$400
>500 acres	\$1,250	\$400
Low Erosivity Waiver (CGP)	\$125	\$0
Industrial (MSGP) Permits	\$1,500	\$1,000
Cert. of No Exposure (MSGP)	\$250	\$100



Permit Type	Application	Annual
Other General Permits	\$0	\$0

<sup>1</sup>This includes NOIs for construction that will disturb one or more acres of land, or will disturb less than one acre of land but are part of a common plan of development or sale that will ultimately disturb one or more acres of land. (3-24-22)(\_\_\_\_)

**032. Fee Assessment.** ( )

a. An annual fee assessment will be generated for each IPDES-permitted facility for which an annual fee is required ~~as set forth in~~ under Subsection 110.0201. Annual fees will be determined based on the twelve (12) months between October 1 and September 30 ~~of the following calendar~~ each year. (3-24-22)(\_\_\_\_)

b. Application Fees and Annual Fees. ( )

i. Application fees, as identified in Subsection 110.0201.b., are assessed ~~at the time of~~ upon application submission for coverage under an individual permit, or notice of intent for coverage or waiver under a general permit. (3-24-22)(\_\_\_\_)

ii. Owners or operators of multi-year storm water facilities or construction projects are subject to annual fees that will be assessed in the year (October through September) ~~immediately~~ following the receipt of the application or notice of intent for coverage. (3-24-22)(\_\_\_\_)

c. Assessment of annual fees will consider the number of months a permittee was covered under either a general or an individual permit in a ~~given~~ year (October through September of ~~the following calendar~~ each year). If the permittee was covered for less than a full twelve (12) months, the assessed fee will be pro-rated to account for less than a full year's coverage under the permit. (3-24-22)(\_\_\_\_)

**043. Billing.** For ~~those~~ permitted facilities subject to an annual fee, the annual fee will be assessed, and the Department will send a statement ~~will be mailed by the Department~~ on or before July ~~October~~ 1 of each year. The Department will also assess and send annual fee statements when permit coverage is terminated. (3-24-22)(\_\_\_\_)

**054. Payment.** ( )

a. Payment of the annual fee is due on ~~October 1~~ December 31, unless it is a Saturday, Sunday, or legal holiday, in which event the payment is due on the successive business day. Payment of annual fees for terminated permit coverage is due at the time of termination. (3-24-22)(\_\_\_\_)

~~b. If a POTW serves five hundred seventy-five (575) EDUs or more, the facility may request to divide its annual fee payment into equal monthly or quarterly installments by submitting a request to the Department on the proper request form provided with the initial billing statement. (3-24-22)~~

~~i. The Department will notify an applicable POTW, in writing, of approval or denial of a requested monthly or quarterly installment plan within ten (10) business days of the Department receiving such a request. (3-24-22)~~

~~ii. If a POTW has been approved to pay monthly installments then each installment is due by the first day of each month, unless it is a Saturday, a Sunday, or a legal holiday, in which event the installment is due on the next business day. (3-24-22)~~

~~iii. If a POTW has been approved to pay quarterly installments then each installment is due by the first day of the month of each quarter (October 1, January 1, April 1, and July 1), unless it is a Saturday, a Sunday, or a legal holiday, in which event the installment is due on the next business day. (3-24-22)~~

**eb.** Payment of the application fee is due with the application for an individual permit or notice of intent for coverage under a general permit. The Department will not authorize IPDES permit payments upon receipt

of the billing statement. (3-24-22)( )

c. A POTW may request, in writing, monthly or quarterly installment payments upon receipt of the billing statement. The Department will approve or deny the request and inform the POTW within ten (10) business days. ( )

**065. Delinquent Unpaid Fees.** A permittee covered under either a general or individual permit or an individual permit will be delinquent in payment if the Department does not receive the assessed annual fee assessed has not been received by the Department by November January 1; or if having first the permittee opted to pay monthly or quarterly installments, its monthly or quarterly installment has not been is not received by the Department by the last day of the month in which the monthly or quarterly payment is due. (3-24-22)( )

**076. Suspension of Services and Disapproval Designation.** For any pPermittees delinquent in payment of fees assessed under Subsections 110.021 and 110.065: (3-24-22)( )

a. In excess of After ninety (90) days, the Department will suspend all technical services it provides d. The permittee will receive a warning letter that identifies identifying administrative enforcement actions the Department may pursue if the permittee does not comply with the terms of the permit. (3-24-22)( )

b. In excess of After one hundred and eighty (180) days, the Department will consider the permittee in non-compliance with permit conditions and these rules, and subject to provisions described in Section 500 (Enforcement) of these rules. (3-24-22)( )

**087. Reinstatement of Suspended Services and Approval Status.** For any pPermittees for which delinquency of fee payment pursuant to under Subsection 110.076 has resulted in the suspension of technical services, determination of non-compliance of permit condition, or both, the continuation of technical services, determination of compliance based on payment of fee, or both, will occur upon payment of delinquent annual fee assessments. (3-24-22)( )

**098. Enforcement Action.** Nothing in Section 110 (Fee Schedule for IPDES Permitted Facilities) w waives the Department's right to undertake a non-fee related enforcement action at any time, including seeking penalties, as provided in Sections 39-108, 39-109, and 39-117, Idaho Code. (3-24-22)( )

**109. Responsibility to Comply.** Subsection 110.076 does not relieve any permittee from its obligation to comply with all applicable the state and federal statutes, rules, regulations, permits, or orders. (3-24-22)( )

111. -- 119. (RESERVED)

## 120. NEW SOURCES AND NEW DISCHARGES.

**01. Criteria for New Source Determination.** Except as otherwise provided in an applicable new source performance standard, a source is a new source if it meets the definition in Section 010 (Definitions), and: (3-24-22)( )

a. Is constructed at a site at which no other source is located; or ( )

b. Totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or ( )

c. Its processes are substantially independent of an existing source at the same site. In determining whether these processes are substantially independent, the Department shall will consider such factors as including the: (3-24-22)( )

i. The eExtent to which the new facility is integrated with the existing plant; and (3-24-22)( )

ii. The eExtent to which the new facility is engaged in the same general type of activity as the existing source. (3-24-22)( )

**02. New Source vs. New Discharger.** A source meeting the requirements of Subsection 120.01 is a new source only if a new source performance standard ~~is independently applicable~~ applies to it. If ~~there is no such independently applicable~~ no independent standard applies, the source is a new discharger, as defined in Section 010 (Definitions). (3-24-22)( )

**03. Modification vs. New Source/Discharger.** Construction on a site ~~at which~~ where an existing source is located, results in a modification subject to Subsection 201.02, rather than a new source (or a new discharger) if the construction does not create a new building, structure, facility, or installation meeting the criteria of Subsection 120.01, but otherwise alters, replaces, or adds to existing process or production equipment. (3-24-22)( )

**04. New Source Construction.** Construction of a new source ~~has commenced if~~ commences when the owner or operator ~~has~~: (3-24-22)( )

**a.** ~~Begun, Begins a new~~ or ~~caused to begin as part of a~~ restarts a continuous on-site construction program: (3-24-22)( )

**i.** ~~Any placement~~ Places, assembly ~~es~~, or installation ~~of~~ facilities or equipment; or (3-24-22)( )

**ii.** Significantly prepares the site, ~~preparation work~~ including clearing, excavation, or removal of existing buildings, structures, or facilities ~~which is necessary~~ for the placement, assembly, or installation of new source facilities or equipment; or (3-24-22)( )

**b.** Entered ~~s~~ into a binding contractual obligation for ~~the purchase of~~ purchasing facilities or equipment ~~which are intended to be for~~ used in its operation within a reasonable time. Items ~~which that~~ do not constitute contractual obligations under this section include: (3-24-22)( )

**i.** Options to purchase or contracts ~~which that~~ can be terminated or modified without substantial loss; (3-24-22)( )

**ii.** Contracts for feasibility engineering; and ( )

**iii.** Design studies. ( )

**121. -- 129. (RESERVED)**

**130. GENERAL PERMITS.**

**01. Coverage.** The Department may issue a general permit in accordance with the following: ( )

**a.** Within a geographic area, the general permit will be written to cover one (1) or more categories or subcategories of discharges or sludge use or disposal practices or facilities described in the permit under Subsection 130.01.b.ii., except those covered by individual permits within a geographic area. The area ~~should~~ will correspond to existing geographic or political boundaries such as: (3-24-22)( )

**i.** Designated planning areas under ~~the Clean Water Act sections~~ CWA Sections 208 and 303; (3-24-22)( )

**ii.** Sewer districts or sewer authorities; ( )

**iii.** City, county, or state political boundaries; ( )

**iv.** State highway systems; ( )

**v.** Standard metropolitan statistical areas as defined by state or federal agencies; ( )

- vi. Urbanized areas as designated by the U.S. Census Bureau; or ( )
- vii. ~~Any~~ Another appropriate division or combination of boundaries. (3-24-22)( )
- b.** The general permit may be written to regulate one (1) or more categories or subcategories of discharges or sludge use or disposal practices or facilities, within the area described in Subsection 130.01.a., where the sources within a covered subcategory of discharges are either: ( )
- i. Storm water point sources; or ( )
- ii. One (1) or more categories or subcategories of point sources other than storm water point sources or TWTDS, if ~~the point sources or TWTDS within each category or subcategory~~ all: (3-24-22)( )
- (1) Involve the same or substantially similar types of operations; ( )
- (2) Discharge the same types of wastes or engage in the same types of sludge use or disposal practices; ( )
- (3) Require the same effluent limitations, operating conditions, or standards for sewage sludge use or disposal; (3-24-22)( )
- (4) Require the same or similar monitoring; and ( )
- (5) In the opinion of the Department, are more appropriately controlled under a general permit than under individual permits. ( )
- c.** Where sources within a specific category or subcategory of dischargers are subject to water quality-based limits imposed ~~pursuant to~~ under Section 302-~~(Establishing Permit Provisions)~~, the sources in that specific category or subcategory are subject to the same water quality-based effluent limitations. (3-24-22)( )
- d.** Other requirements: ( )
- i. The general permit ~~must will~~ clearly identify the applicable conditions for each category or subcategory of dischargers or TWTDS covered by the permit; and (3-24-22)( )
- ii. The general permit may exclude specified sources or areas from coverage. ( )
- iii. For general permits issued under Subsection 130.01.b. for small MS4s, the Department ~~must will~~ establish the terms and conditions necessary to meet the requirements of 40 CFR 122.34 using one (1) of the two (2) permitting approaches described in Subsections 130.01.d.iii(1) and (2). The Department ~~must will~~ indicate in the permit or fact sheet ~~which the approach is being~~ used. (3-24-22)( )
- (1) Comprehensive general permit. The Department includes all required permit terms and conditions in the general permit; or ( )
- (2) Two-step general permit. The Department includes required permit terms and conditions in the general permit applicable to ~~all~~ eligible small MS4s and, during the process of authorizing small MS4s to discharge, establishes additional terms and conditions not included in the general permit to satisfy one (1) or more of the permit requirements in 40 CFR 122.34 for individual small MS4 operators. (3-24-22)( )
- (a) The general permit ~~must will~~ require that ~~any~~ small MS4 operator seeking authorization to discharge under the general permit submit a Notice of Intent (NOI) consisting of the minimum required information in Subsection 130.05.b., and ~~any other~~ information the Director identifies as necessary to establish additional terms and conditions that satisfy the permit requirements of 40 CFR 122.34, such as the information required under Subsection 130.05.b. The general permit will explain ~~any~~ other steps necessary to obtain permit authorization. (3-24-22)( )

(b) The Department ~~must~~ will review the NOI submitted by the small MS4 operator to determine whether the information in the NOI is complete and to establish the additional terms and conditions necessary to meet the requirements of 40 CFR 122.34. The Department may require the small MS4 operator to submit additional information. If the Department makes a preliminary decision to authorize the small MS4 operator to discharge under the general permit, the Department ~~must~~ will give the public notice of and opportunity to comment and request a public meeting on its proposed authorization and the NOI, ~~the~~ proposed additional terms and conditions, and ~~the~~ basis for these additional requirements. The public notice, ~~the~~ process for submitting public comments and meeting requests, and ~~the~~ meeting process if a request for a meeting is granted, must will follow the procedures applicable to draft permits ~~set forth~~ in Sections 108 and 109 except Subsection 109.01.d. The Department ~~must~~ will respond to significant comments received during the comment period as provided in Subsection 109.03. (3-24-22)( )

(c) Upon authorization for the MS4 to discharge under the general permit, the final additional terms and conditions applicable to the MS4 operator become effective. The Department ~~must~~ will notify the permittee and inform the public of the decision to authorize the MS4 to discharge under the general permit and of the final additional terms and conditions specific to the MS4. (3-24-22)( )

**02. Electronic Submittals.** As of December 21, 2020, ~~all~~ notices of intent submitted in compliance with this section must be submitted electronically by the discharger (or treatment works treating domestic sewage) to the Department unless waived ~~pursuant to~~ under 40 CFR 127.15. (3-24-22)( )

**03. Information Retention Schedule.** An applicant must keep records of all data used to complete a notice of intent and ~~any~~ supplemental information submitted for a period of at least three (3) years from the date the notice of intent is signed. (3-24-22)( )

**04. Notice of Intent.** ( )

**a.** ~~Any~~ person required under Subsections 102.01 through 102.03 must submit a notice of intent to the Department for coverage under an IPDES general permit as ~~set out~~ required in Subsection 130.05. (3-24-22)( )

**b.** A notice of intent must be signed and certified as required ~~by~~ in Section 090 ~~(Signature Requirements)~~. (3-24-22)( )

**05. Administration.** ( )

**a.** General permits may be issued, modified, revoked and reissued, or terminated in accordance with Sections 201 (Modification, or Revocation and Reissuance of IPDES Permits) and 203 (Termination of IPDES Permits). ( )

**b.** Authorization to discharge, or ~~authorization to~~ engage in sludge use and disposal practices will follow these procedures: (3-24-22)( )

i. Except as provided in Subsections 130.05.b.xi. and 130.05.b.xii., a discharger must submit, in accordance with general permit requirements, a complete and timely notice of intent ~~which will to~~ fulfill the requirements for permit applications; (3-24-22)( )

ii. A discharger (or TWTDS) who fails to submit a notice of intent in accordance with the terms of the permit is not authorized to discharge (or ~~in the case of~~ for a sludge disposal permit, to engage in a sludge use or disposal practice) under the terms of the general permit unless: (3-24-22)( )

(1) The general permit, in accordance with Subsections 130.05.b.xi., contains a provision that a notice of intent is not required; or ( )

(2) The Department notifies a discharger (or TWTDS) that it is covered by a general permit in accordance with Subsection 130.05.b.xii.; ( )

iii. ~~All n~~ Notices of intent must be signed as required in Section 090 ~~(Signature Requirements)~~;

(3-24-22)( )

iv. The general permit will specify the contents of the notice of intent and require ~~the submission of~~ submitting information necessary for adequate program implementation, including at a minimum: (3-24-22)( )

- (1) ~~The L~~ legal name, and address, ~~and EIN or Department equivalent~~ of the ~~owner or~~ operator; (3-24-22)( )
- (2) ~~The F~~ facility name and address; (3-24-22)( )
- (3) Type of facility, site, or discharges; and (3-24-22)( )
- (4) ~~The r~~ Receiving stream(s); (3-24-22)( )

v. Coverage under a general permit may be terminated or revoked in accordance with Subsection 130.05.c. through e.; ( )

vi. Notices of intent for coverage under a general permit for CAFOs must include the information specified in Subsection 105.09 and 40 CFR 122.21(i)(1), including a topographic map; ( )

vii. ~~A~~ CAFO owner or operator may be authorized to discharge under a general permit only in accordance with the process described in 40 CFR 122.23(h); (3-24-22)( )

viii. General permits for storm water discharges associated with industrial activity from inactive mining, inactive oil and gas operations, or inactive landfills occurring on federal lands where an operator cannot be identified may contain alternative notice of intent requirements; ( )

ix. General permits ~~shall will~~ specify the deadlines for submitting notices of intent to be covered and the date(s) when a discharger is authorized to discharge under the permit; (3-24-22)( )

x. General permits ~~shall will~~ specify whether a discharger (or TWTDS), who has submitted a complete and timely notice of intent to be covered in accordance with the general permit and is eligible for coverage under the permit, is authorized to discharge (~~or in the case of~~ for a sludge disposal permit, to engage in a sludge use or disposal practice) in accordance with the permit ~~either~~; (3-24-22)( )

- (1) Upon receipt of the notice of intent by the Department; ( )
- (2) After a waiting period specified in the general permit; ( )
- (3) On a date specified in the general permit; or ( )
- (4) Upon receipt of notification of inclusion by the Department; ( )

xi. Discharges other than discharges from POTWs, combined sewer overflows, ~~municipal separate storm sewer systems~~ MS4s, primary industrial facilities, and storm water discharges associated with industrial activity, may, at the discretion of the Department, be authorized to discharge under a general permit without submitting a notice of intent ~~where~~ when the Department finds that a notice of intent requirement ~~would be~~ is inappropriate. The Department ~~shall will~~ provide in the public notice of the general permit the reasons for not requiring a notice of intent. ~~In making such a finding,~~ The Department shall will consider: (3-24-22)( )

- (1) ~~The t~~ Type of discharge; (3-24-22)( )
- (2) ~~The e~~ Expected nature of the discharge; (3-24-22)( )
- (3) ~~The p~~ Potential for toxic and conventional pollutants in the discharges; (3-24-22)( )
- (4) ~~The e~~ Expected volume of the discharges; (3-24-22)( )

- (5) Other means of identifying discharges covered by the permit; and ( )
- (6) ~~The e~~Estimated number of discharges to be covered by the permit; and ~~(3-24-22)~~( )
- xii. The Department may notify a discharger (or TWTDS) that it is covered by a general permit, even if the discharger (or TWTDS) has not submitted a notice of intent to be covered. A discharger (or TWTDS) so notified may request an individual permit as specified in Subsection 130.05.d. ( )
- c. The Department may terminate, revoke, or deny coverage under a general permit, and require the discharger or applicant to apply for and obtain an individual IPDES permit. Any interested person may petition the Department to take action under this subsection. Cases where an individual IPDES permit may be required include ~~the following~~: ~~(3-24-22)~~( )
- i. ~~The d~~Discharger or TWTDS is not in compliance with the conditions of the general permit; ~~(3-24-22)~~( )
- ii. ~~A e~~Change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source or TWTDS; ~~(3-24-22)~~( )
- iii. ~~Effluent limitation guidelines~~ELGs are promulgated for point sources covered by the general permit; ~~(3-24-22)~~( )
- iv. ~~A~~Water Quality Management plan containing requirements ~~applicable to such~~ for point sources is approved; ~~(3-24-22)~~( )
- v. Circumstances have changed since the time of the request to be covered so that the discharger is no longer appropriately controlled under the general permit, or either a temporary or permanent reduction or elimination of the authorized discharge is necessary; ( )
- vi. Standards for sewage sludge use or disposal have been promulgated for the sludge use and disposal practice covered by the general IPDES permit; or ( )
- vii. ~~The discharge(s)~~Discharge is a significant contributor of pollutants. ~~In making~~For this determination, the Department may consider ~~the following factors~~: ~~(3-24-22)~~( )
- (1) ~~The l~~Location of the discharge with respect to waters of the United States; ~~(3-24-22)~~( )
- (2) ~~The s~~Size of the discharge; ~~(3-24-22)~~( )
- (3) ~~The q~~Quantity and nature of the pollutants discharged to waters of the United States; and ~~(3-24-22)~~( )
- (4) Other relevant factors. ( )
- d. Any owner or operator authorized by a general permit may request to be excluded from the coverage of the general permit by applying for an individual permit. ( )
- i. The owner or operator ~~shall must~~ submit an application under Section 105 (~~Application for an Individual IPDES Permit~~), with reasons supporting the request, to the Department no later than ninety (90) days after the publication of the general permit. ~~(3-24-22)~~( )
- ii. The Department ~~shall must~~ process the request under Sections 106 (Individual Permit Application Review), 107 (Decision Process), 108 (Draft Permit and Fact Sheet) and 109 (Public Notification and Comment). ~~(3-24-22)~~( )
- iii. The Department ~~shall will~~ grant a request by issuing an individual permit if the reasons cited by the

owner or operator are adequate to support the request.

(3-24-22)( )

e. When an individual IPDES permit is issued to an owner or operator otherwise subject to a general IPDES permit, the applicability of the general permit to the individual IPDES permittee is automatically terminated on the effective date of the individual permit. ( )

f. A source excluded from a general permit, solely because it already has an individual permit, may request that the individual permit be revoked, and that it be covered by the general permit. Upon revocation of the individual permit, the general permit ~~shall~~ will apply to the source. (3-24-22)( )

#### 06. Case-by-Case Requirements for Individual Permits. ( )

a. The Department may require any owner or operator authorized by a general permit to apply for an individual IPDES permit as provided in Subsection 130.05.c., only if the owner or operator has been notified in writing that a permit application is required. This notice ~~shall~~ will include a ~~brief~~ statement of the reasons for this decision, an application form, a statement setting a time for the owner or operator to file the application, a statement that on the effective date of the individual IPDES permit, the general permit as it applies to the individual permittee ~~shall~~ automatically terminate, and a statement that the owner or operator may appeal the Department's decision as provided in Section 204 (~~Appeals Process~~). The Department may grant additional time upon request of the applicant. (3-24-22)( )

b. ~~Prior to~~ Before a case-by-case determination that an individual permit is required for a storm water discharge under this section (~~see~~ 40 CFR 122.26(a)(1)(v), (a)(9)(iii), and Subsection 105.19), the Department may require the discharger to submit a permit application or other information regarding the discharge described in the ~~Clean Water Act section~~ CWA Section 308. (3-24-22)( )

i. ~~In~~ When requiring ~~such~~ information, the Department ~~shall~~ will notify the discharger in writing and ~~shall~~ send an application ~~form~~ with the notice. (3-24-22)( )

ii. The discharger must apply for a permit within one hundred eighty (180) days of notice, unless permission for a later date is granted by the Department. ( )

#### 131. -- 199. (RESERVED)

#### 200. RENEWAL OF IPDES PERMITS.

01. **Interim Effluent Limits.** Except as provided in Subsection 200.02, when a permit is renewed or reissued, interim effluent ~~limitations~~, standards or conditions must be at least as stringent as the final effluent ~~limitations~~, standards, or conditions in the previous permit unless the circumstances on which the previous permit ~~was based~~: (3-24-22)( )

a. ~~Have m~~ Materially and substantially changed since the time the permit was issued; and (3-24-22)( )

b. ~~Would e~~ Constitute cause for permit modification or revocation and reissuance under Subsection 201.02. (3-24-22)( )

02. **Final ~~Clean Water Act~~ CWA Section 402(a)(1)(B) Effluent Limits.** ~~In the case of~~ For effluent ~~limitations~~ established by the Department ~~on the basis of the Clean Water Act section~~ based on CWA Section 402(a)(1)(B), a permit may not be renewed, reissued, or modified ~~on the basis of effluent guidelines~~ based on ELGs promulgated under ~~Clean Water Act section~~ CWA Section 304(b) after the original issuance of a permit, to contain effluent ~~limitations which that~~ are less stringent than the comparable effluent ~~limitations~~ in the previous permit, except a permit may be renewed, reissued, or modified to contain a less stringent effluent ~~limitation~~ applicable to a pollutant, if: (3-24-22)( )

a. Material and substantial alterations or additions to the permitted facility occurred after permit issuance, ~~which~~ justify ing the application of a less stringent effluent ~~limitation~~; (3-24-22)( )



- b. Information is available ~~that~~: (3-24-22)( )
- i. ~~Which w~~ Was not available ~~at the time of~~ during permit issuance (other than revised regulations, guidance, or test methods) and ~~which would have justified~~ the application of a less stringent effluent limitation ~~at the time of~~ during permit issuance; or (3-24-22)( )
- ii. ~~Which t~~The Department determines ~~indicates that~~ technical mistakes or mistaken interpretations of law were made in issuing the permit under ~~the Clean Water Act section~~ CWA Section 402(a)(1)(b); (3-24-22)( )
- c. A less stringent effluent limitation is necessary because of events over which the permittee has no control and ~~for which~~ there is no reasonably available remedy; (3-24-22)( )
- d. The permittee ~~has~~ received a permit modification under ~~the Clean Water Act section~~ CWA Sections 301(c), 301(g), 301(i), 301(k), 301(n), or 316(a); or (3-24-22)( )
- e. The permittee ~~has~~ installed the treatment facilities required to meet the effluent limitations in the previous permit and ~~has~~ properly operated and maintained the facilities but has ~~nevertheless been unable to~~ not achieved the previous effluent limitations. ~~In this case t~~The limitations in the reviewed, reissued, or modified permit may reflect the level of pollutant control actually achieved (but ~~shall will~~ not be less stringent than required ~~by effluent guidelines~~ ELGs in effect ~~at the time of~~ during permit renewal, reissuance, or modification). (3-24-22)( )

**03. Final ~~Clean Water Act~~ CWA Section 301(b)(1)(C) or 303 Effluent Limits.** ~~In the case of~~ For effluent limitations ~~established on the basis of Clean Water Act section~~ based on CWA Sections 301(b)(1)(C) ~~or section~~, 303(d), or (e), a permit may not be renewed, reissued, or modified to contain effluent limitations ~~which are~~ less stringent than the comparable effluent limitations in the previous permit except when: (3-24-22)( )

- a. One of the exceptions in Subsection 200.02 apply; or ( )
- b. The water ~~to which~~ where the discharge occurs is identified as impaired on Idaho's Integrated Report and the effluent limitation is based on a ~~total maximum daily load~~ TMDL or other waste load allocation established under ~~Clean Water Act section~~ CWA Section 303, if the cumulative effect of all revised effluent limitations based on ~~such total maximum daily load~~ the TMDL or waste load allocation will ~~as~~ ensure the attainment of applicable water quality standards; or (3-24-22)( )
- c. The water quality ~~in the water to which~~ where the discharge occurs meets or exceeds levels required by ~~applicable~~ the water quality standards, and the effluent limitation is based on a ~~total maximum daily load~~ TMDL or other waste load allocation established under ~~Clean Water Act section~~ the CWA Section 303, any water quality standard, or ~~any~~ permitting standard, if ~~such~~ the revision is subject to and consistent with the antidegradation policy and implementation procedures in the water quality standards. (3-24-22)( )

**04. Effluent Limits and Water Quality Standards.** In no event may a permit ~~with respect~~ to which Subsection 200.02 or 200.03 applies be renewed, reissued, or modified to contain an effluent limitation ~~which is~~ less stringent than required by ~~effluent guidelines~~ ELGs in effect at the time the permit is renewed, reissued, or modified. In no event may such a permit to discharge into waters of the United States be renewed, issued, or modified to contain a less stringent effluent ~~limitation if the implementation of such limitation would~~ limit if implementing the limit results in a violation of a water quality standard under IDAPA 58.01.02, "Water Quality Standards." (3-24-22)( )

## 201. MODIFICATION, OR REVOCATION AND REISSUANCE OF IPDES PERMITS.

### 01. Procedures to Modify, or Revoke and Reissue Permits. ( )

- a. Permits may be modified, or revoked and reissued, ~~either~~ at the request of any interested person (including the permittee) or upon the Department's initiative. ~~However, p~~Permits may only be modified, or revoked and reissued, ~~for the reasons specified~~ in Subsection 201.02. ~~All r~~Requests ~~shall must~~ be in writing and ~~shall~~ contain facts or reasons supporting the request. (3-24-22)( )

b. If the Department tentatively decides to modify, or revoke and reissue, a permit, the Department ~~shall~~ will prepare a draft permit under Section 108 (~~Draft Permit and Fact Sheet~~), incorporating the proposed changes. (3-24-22)( )

i. The Department may request additional information, and, ~~in the case of~~ for a modified permit, may require ~~the submission~~ submittal of an updated application. If the tentative decision is to revoke and reissue a permit, the Department ~~shall~~ will require ~~the submission~~ submittal of a new application. (3-24-22)( )

ii. In a permit modification ~~under this section~~, only those conditions to be modified ~~shall~~ will be reopened when a new draft permit is prepared. All other aspects of the existing permit ~~shall~~ remain in effect for the duration of the unmodified permit. (3-24-22)( )

iii. When a permit is revoked and reissued ~~under this section~~, the entire permit is reopened ~~just~~ as if the permit had expired and ~~was~~ is being reissued. During ~~any~~ revocation and reissuance proceeding, the permittee ~~shall~~ must comply with ~~all the~~ conditions of the existing permit until a new final permit is reissued. (3-24-22)( )

iv. Minor modifications, ~~as~~ defined in Subsection 201.03, do not require ~~the~~ development of a draft permit, ~~and~~ fact sheet, ~~nor must minor modifications be subjected and are not subject~~ to public notification and comment. (3-24-22)( )

**02. Causes to Modify, or Revoke and Reissue Permits.** When the Department receives ~~any~~ pertinent information (~~for example, inspects the e.g.,~~ facility, ~~receives inspection,~~ information submitted ~~by the permittee~~ as required ~~in~~ by the permit, ~~receives~~ a request for modification or revocation and reissuance under Subsection 201.01, or ~~conducts a review of the~~ permit file review), the Department may determine whether ~~or not~~ one (1) or more of the causes listed in Subsections 201.02.c. and 201.02.d. for modification or revocation and reissuance or both exist. (3-24-22)( )

a. If cause exists, the Department may modify or revoke and reissue the permit ~~accordingly~~, subject to the ~~limitation~~ of Subsection 201.01.b., and may request a new or updated application, if necessary. (3-24-22)( )

b. If cause does not exist ~~under this section~~, the Department ~~shall~~ will not modify or revoke and reissue the permit. (3-24-22)( )

c. The following are causes for modification but not revocation and reissuance of permits except when the permittee requests or agrees: ( )

i. ~~There are m~~Material and substantial alterations or additions to the permitted facility or activity (including a change ~~or changes~~ in the permittee's sludge use or disposal practice), ~~which~~ occurred after permit issuance, and ~~which~~ justify ~~the application of~~ permit conditions that are different or absent in the existing permit. (3-24-22)( )

ii. The Department has received new information. Permits may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and ~~would have justified~~ justifies the application of different permit conditions at the time of issuance: (3-24-22)( )

(1) For IPDES general permits (Section 130), ~~this~~ cause includes ~~any~~ information indicating that cumulative effects on the environment are unacceptable; and (3-24-22)( )

(2) For new source or new discharger IPDES permits (Section 120), ~~this~~ cause ~~shall include any~~ includes significant information derived from effluent testing required under Subsection 105.08 or 105.16 after issuance of the permit. (3-24-22)( )

iii. The standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued. Permits may be modified during their terms for this cause only ~~as follows~~: (3-24-22)( )

- (1) For promulgation of amended standards or regulations, when: ( )
- (a) The ~~permit condition~~ requested ~~to be modified~~ modification was based on a promulgated ~~effluent limitation guideline~~ ELG, EPA approved or promulgated water quality standards, or the Secondary Treatment Regulations under 40 CFR Part 133; (3-24-22)( )
- (b) ~~The EPA has revised, withdrawn~~ withdrew, or modified that portion of the regulation or ~~effluent limitation guideline~~ ELG on which the permit condition was based, or ~~has~~ approved a state action ~~with regard to~~ for a water quality standard on which the permit condition was based; and (3-24-22)( )
- (c) A permittee requests modification ~~in accordance with~~ under Subsection 201.01 or 203.01 within ninety (90) days after notice of the action on which the request is based; ~~and~~. (3-24-22)( )
- (2) For judicial decisions, a court of competent jurisdiction ~~has~~ remanded and stayed EPA or Idaho promulgated regulations or ~~effluent limitation guidelines~~ ELGs, if the remand and stay concerns that portion of the regulations or guidelines on which the permit condition was based, and a request is filed by the permittee ~~in accordance with~~ under Subsection 201.01 or 203.01 within ninety (90) days of judicial remand. (3-24-22)( )
- iv. The Department determines good cause exists for ~~modification of~~ modifying a compliance schedule, such as an act of God, strike, flood, or materials shortage or other events ~~over which that~~ the permittee has little or no control and ~~for which there is~~ no reasonably available remedy exists. ~~However, in no case may an IPDES A compliance schedule~~ must not be modified to extend beyond ~~an applicable Clean Water Act~~ the CWA statutory deadline. (3-24-22)( )
- v. When the permittee has filed a request for a variance under ~~Clean Water Act section~~ CWA Sections 301(c), 301(g), 301(i), 301(k), or 316(a) or for fundamentally different factors within the time specified in Section 310 ~~(Variances)~~. (3-24-22)( )
- vi. When required to incorporate an ~~applicable Clean Water Act~~ CWA Section 307(a) toxic effluent standard or prohibition, under Subsection 302.04. (3-24-22)( )
- vii. When required by the reopener conditions in a permit, ~~which are~~ established in the permit under Subsection 302.05 or 40 CFR 403.18(e) (Pretreatment Standards). (3-24-22)( )
- viii. Upon request of a permittee who qualifies for effluent limitation on a net basis, or when a discharger is no longer eligible for net limitation, as provided in Subsection 303.07. (3-24-22)( )
- ix. As necessary under 40 CFR 403.8(e) (Pretreatment Program Requirements: Development and Implementation by POTW). ( )
- x. Upon failure of an approved state to notify, as required by ~~the Clean Water Act section~~ CWA Section 402(b)(3), another state whose waters may be affected by a discharge from the approved state. (3-24-22)( )
- xi. When the level of discharge of ~~any pollutant which is~~ pollutants not limited in the permit exceeds the level ~~which that~~ can be achieved by the technology-based treatment requirements appropriate to the permittee under 40 CFR 125.3(c). (3-24-22)( )
- xii. To establish a notification level as provided in Subsection 302.08. ( )
- xiii. To modify a compliance schedule ~~of compliance~~ to reflect the time lost during construction of an innovative or alternative facility, ~~in the case of for~~ a POTW ~~which has that~~ received a loan under IDAPA 58.01.12, "Rules for Administration of Water Pollution Control Loans." ~~In no case shall~~ The compliance schedule must not be modified to extend beyond ~~an applicable Clean Water Act~~ the CWA statutory deadline. (3-24-22)( )
- xiv. For a small MS4, to include an effluent limitation requiring implementation of ~~a~~ minimum control ~~measure or~~ measures as specified in 40 CFR 122.34(b) when: (3-24-22)( )

(1) The permit does not include ~~such~~ measure(s) based upon the determination that another entity was responsible for ~~implementation of~~ implementing the requirement(s), and (3-24-22)( )

(2) The other entity fails to implement measure(s) that satisfy the requirement(s). (3-24-22)( )

xv. To correct technical ~~mistakes, such as~~ errors in calculation, or mistaken interpretations of law made in determining permit conditions. (3-24-22)( )

xvi. When the discharger has installed the treatment technology considered by the permit writer in setting effluent limitations imposed under ~~the Clean Water Act section~~ CWA Section 402(a)(1) and has properly operated and maintained the facilities but ~~nevertheless has been unable to~~ not achieved those effluent limitations. ~~In this case, t~~ The limitation in the modified permit may reflect the level of pollutant control ~~actually~~ achieved (but ~~shall~~ must not be less stringent than required by a subsequently promulgated ~~effluent limitations guideline~~ ELG). (3-24-22)( )

xvii. The incorporation of the terms of a CAFO's nutrient management plan into the terms and conditions of a general permit when a CAFO obtains coverage under a general permit in accordance with 40 CFR 122.23(h), and Section 130 ~~(General Permits)~~ is not a cause for modification ~~pursuant to~~ under the requirements of this section. (3-24-22)( )

xviii. When required by a permit condition to incorporate a land application or sludge disposal plan for beneficial reuse of sewage sludge, to revise an existing land application or sludge disposal plan, or to add a land application or sludge disposal plan as required by IDAPA 58.01.16.650, "Wastewater Rules," and Section 380 ~~(Sewage Sludge) of these rules.~~ (3-24-22)( )

d. The following are causes to modify or, ~~alternatively,~~ revoke and reissue a permit: (3-24-22)( )

i. Cause exists for termination under Subsection 203.03, and the Department determines that modification or revocation and reissuance is appropriate; ( )

ii. The Department has received notification, as required in the permit, of a proposed transfer of the permit; or ( )

iii. A permit also may be modified to reflect a transfer after the effective date of an automatic transfer (Subsection 202.02) but will not be revoked and reissued after the effective date of the transfer except upon the request of the new permittee. ( )

**03. Minor Modifications of Permits.** Upon the consent of the permittee, the Department may modify a permit to ~~make the~~ corrections or allow ~~ances~~ changes for changes in the permitted activity listed in this subsection without following the procedures of Sections 108 (Draft Permit and Fact Sheet), 109 (Public Notification and Comment), and Subsection 201.01. ~~Any~~ permit modification not processed as a minor modification under this subsection must be made for cause and ~~must~~ meet the requirements of Section 108 ~~(Draft Permit and Fact Sheet)~~ and Section 109 ~~(Public Notification and Comment)~~. Minor modifications may: (3-24-22)( )

a. Correct typographical errors; ( )

b. Require more frequent or not less frequent monitoring or reporting by the permittee; (3-24-22)( )

c. Change an interim compliance date in a compliance schedule ~~of compliance~~, provided the new date is not more than one hundred twenty (120) days after the date specified in the existing permit and does not interfere with ~~attainment of~~ attaining the final compliance date requirement; (3-24-22)( )

d. Allow for a change in ownership or operational control of a facility where the Department determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been

submitted to the Department;

( )

e. Change the construction schedule for a discharger ~~which that~~ is a new source. No ~~such~~ change ~~shall~~ affect a discharger's obligation to have ~~all~~ pollution control equipment installed and in operation ~~prior to~~ before discharge under Section 120 (~~New Sources and New Discharges~~), and 40 CFR 122.29(d); (3-24-22)( )

f. Delete a point source outfall when the discharge from that outfall is terminated and does not result in discharge of pollutants from other outfalls except ~~in accordance with~~ under permit limits; (3-24-22)( )

g. Incorporate conditions of a POTW pretreatment program ~~that has been~~ approved in accordance with ~~the procedures in~~ 40 CFR 403.11 or a modification ~~that has been~~ approved in accordance with ~~the procedures in~~ 40 CFR 403.18 as enforceable conditions of the POTW's permits; (3-24-22)( )

h. Incorporate changes to the terms of a CAFO's nutrient management plan that ~~have been~~ were revised in accordance with ~~the requirements of~~ 40 CFR 122.42(e)(6); or (3-24-22)( )

i. Require electronic reporting requirements (to replace paper reporting requirements) ~~including those~~ specified in 40 CFR Part 127 (NPDES Electronic Reporting). (3-24-22)( )

## 202. TRANSFER OF IPDES PERMITS.

**01. Transfers by Modification.** Except as provided in Subsection 202.02, a permit may be transferred by the permittee to a new owner or operator only if the permit ~~has been~~ was modified or revoked and reissued under Subsection 201.02.d., or a minor modification was made under Subsection 201.03, to identify the new permittee and incorporate ~~such~~ other requirements ~~as may be~~ necessary under the ~~Clean Water Act~~ CWA. (3-24-22)( )

**02. Automatic Transfers.** As an alternative to transfers by modification, any IPDES permit may be automatically transferred to a new permittee if the: (3-24-22)( )

a. ~~The e~~Current permittee notifies the Department at least thirty (30) days ~~in advance of~~ before the proposed transfer date; (3-24-22)( )

b. ~~The n~~Notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee; and (3-24-22)( )

c. ~~The~~Department does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit. A modification under this subsection may ~~also~~ be a minor modification under Subsection 201.03. If this notice is not received, the transfer is effective on the date specified in the agreement. (3-24-22)( )

## 203. TERMINATION OF IPDES PERMITS.

**01. Request to Terminate or Termination Initiated by the Department.** Permits may be terminated either at the request of any interested person (including the permittee) or upon the Department's own initiative. ~~However, p~~Permits may only be terminated for the reasons specified in Subsection 203.03 or 203.04. (3-24-22)( )

a. Request for termination by persons other than the permittee must be submitted in writing to the Department. ( )

b. As of December 21, 2020, ~~all~~ NOTs ~~submitted in compliance with this section~~ must be submitted electronically by the permittee to the Department ~~in compliance to comply~~ with this section and 40 CFR Part 127 unless waived ~~pursuant to~~ under 40 CFR 127.15. 40 CFR Part 127 ~~is not intended to undo~~ does not eliminate existing requirements for electronic reporting. ~~Prior to this date, and i~~Independent of 40 CFR Part 127, the permittee may be required to report electronically if specified by a particular permit. (3-24-22)( )

**02. Tentative Permit Termination.** Except as provided in Subsection 203.04, if the Department tentatively decides to terminate a permit under Subsection 203.03, the Department will issue a notice of ~~intent to terminate~~ion. A notice of ~~intent to terminate~~termination will be available for public comment, and the Department will give notice of an opportunity for public meetings, as specified in Section 109 ~~(Public Notification and Comment)~~. (3-24-22)( )

**03. Cause to Terminate Permits.** The following are causes for terminating a permit during its term, or for denying a permit renewal application: ( )

- a. Noncompliance by the permittee with ~~any~~any conditions of the permit; (3-24-22)( )
- b. ~~The p~~Permittee's failure in the application or during the permit issuance process to fully disclose ~~fully all~~ relevant facts, or the permittee's misrepresentation of ~~any~~any relevant facts at any time; (3-24-22)( )
- c. ~~A d~~Determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or (3-24-22)( )
- d. ~~A e~~Change in ~~any~~any condition that requires either a temporary or permanent reduction or elimination of ~~any~~any discharge or sludge use or disposal practice controlled by the permit (~~for example e.g.~~, plant closure or termination of discharge by connection to a POTW), or other situations where the Department has sufficiently ~~reliable~~ basis for determining discharge will cease. (3-24-22)( )

**04. Expedited Termination Process for Terminated or Eliminated Discharge.** If the entire discharge is permanently terminated by ~~elimination of the~~eliminating flow or ~~by connection~~connecting to a POTW (but not by land application or disposal into a well), the Department may terminate the permit by notice to the permittee. (3-24-22)( )

a. Termination by notice becomes effective thirty (30) days after notice is sent (expedited permit termination), unless the permittee objects within that time. ( )

b. If the permittee objects during that period, the Department will follow procedures for termination in Subsection 203.02. ( )

c. Expedited permit termination procedures are not available to permittees ~~that are~~ subject to pending state and/or federal enforcement actions including citizen suits brought under federal law. If requesting expedited permit termination procedures, a permittee must certify ~~that~~ it is not subject to ~~any~~ pending state or federal enforcement actions including citizen suits brought under federal law. (3-24-22)( )

## 204. APPEALS PROCESS.

**01. Petition for Review of a Permit Decision.** Appeal of a final IPDES permit decision, issued under Section 107 ~~(Decision Process)~~, to the Hearing Authority is commenced by filing a Petition for Review with the Department's Hearing Coordinator within the time prescribed in Subsection 204.01.b. The "Hearing Authority" ~~shall~~will be a Hearing Officer appointed by the Director from a pool of Hearing Officers approved by the Board. (3-24-22)( )

a. Any person who is aggrieved by the final permit decision may file a Petition for Review as provided in this section. A person aggrieved is limited to the permit holder or applicant, and ~~any~~any person or entity who filed comments or who participated in the public meeting on the draft permit. (3-24-22)( )

b. A Petition for Review must be filed with the Department's Hearing Coordinator within twenty-eight (28) days after the Department serves notice of the final permit decision under Section 107 ~~(Decision Process)~~. A petition is filed when it is received by the Department's Hearing Coordinator at the address specified in Subsection 204.13. (3-24-22)( )

c. In addition to meeting the requirements in Subsection 204.06, a Petition for Review must: ( )

i. Be confined to the issues raised during the public comment process or to changes made to the permit by the Department after the close of the public comment period; ( )

ii. Identify the permit condition or other specific aspect of the permit decision ~~that is~~ being challenged; (3-24-22)( )

iii. ~~Set forth~~State the legal and factual basis for the petitioner's contentions; (3-24-22)( )

iv. ~~Set forth~~State the relief sought; and (3-24-22)( )

v. ~~Set forth~~State the basis for asserting ~~that~~ the petitioner is an aggrieved person. (3-24-22)( )

**02. Public Notice of the Petition for Review.** Within fourteen (14) days of the date a Petition for Review has been filed, the Hearing Authority must give reasonable notice to the public of the petition. ( )

**03. Administrative Record Filed By the Department.** The Department ~~shall~~ will file a certified copy of the administrative record, as identified in Section 600 (~~Administrative Records and Data Management~~), with an index within twenty-eight (28) days of the date the Petition for Review was filed. (3-24-22)( )

**04. Participation by the Permit Applicant or Permit Holder.** A permit applicant or permit holder who did not file a petition but who wishes to participate in the appeal process must file a notice of appearance within twenty-eight (28) days of the date the Petition for Review was filed. ( )

**05. Petition to Intervene.** ~~Any~~ person who has a direct and substantial interest in the outcome of the Petition for Review may file a Petition to Intervene. (3-24-22)( )

a. The Petition to Intervene must ~~set forth~~ state the interest of the intervener, and why intervention ~~would~~ will not unduly broaden the issues and cause delay or prejudice to the parties. (3-24-22)( )

b. Petitions to Intervene must be filed within fourteen (14) days of the notice of filing of the Petition for Review. ( )

c. Any party opposing a Petition to Intervene must file objections within seven (7) days after service of the Petition to Intervene and serve the objection upon all parties of record and upon the person petitioning to intervene. ( )

d. If a Petition to Intervene shows direct and substantial interest in the outcome of the Petition for Review, does not unduly broaden the issues, and will not cause delay or prejudice to the parties, the Hearing Authority ~~shall~~ must grant intervention. (3-24-22)( )

**06. Content and Form Requirements for Petitions and Briefs.** ~~All~~ Petitions and briefs filed under this section must: (3-24-22)( )

a. Identify, in the caption, the permit applicant or holder, ~~the~~ permitted facility, and ~~the~~ permit number. ~~The caption should also~~ In the caption, include the case number, if available ~~at the time of~~ during filing, and ~~the~~ title of the document, and (3-24-22)( )

b. Specify on the upper left corner of the first page, the name, address, telephone number, e-mail address and facsimile number, if any, of the person filing the document. If the person filing the document is a representative of a party as provided in Subsection 204.11, the document must identify the name of the person or entity represented. No more than two (2) representatives for service of documents may be listed. ( )

**07. Augmenting the Administrative Record.** Consideration of the Petition for Review by the Hearing Authority is limited to the certified administrative record unless, upon the request of a party, the Hearing Authority allows the record to be augmented. A request to augment the record must be filed within fourteen (14) days of the filing of the certified administrative record, unless intervention is granted, in which case the request to augment must

be filed within fourteen (14) days of the date the order granting intervention is issued. The Hearing Authority may allow the record to be augmented if the requesting party shows that the additional information is material, is relevant to the issues raised in the appeal and that: ( )

a. ~~There were~~ gGood reasons exist for failure to present the information during the permitting proceeding; or (3-24-22)( )

b. ~~There were~~ aAlleged irregularities exist in the permitting proceeding and the party wishes to introduce evidence of the alleged irregularities. (3-24-22)( )

**08. Brief of the Petitioner.** Once ~~all~~ requests to augment the record and motions to intervene have been determined, the Hearing Authority ~~shall~~ must issue an order notifying the parties that the administrative record has been settled and ~~of the date by which~~ the petitioner must file ~~petitioner's~~ a brief in support of the Petition for Review. In addition to meeting the requirements of Subsection 204.06, the brief must include: (3-24-22)( )

a. ~~The~~ Legal arguments and citations to legal authority ~~that~~ ing the allegations in the Petition for Review; and (3-24-22)( )

b. ~~The~~ factual support for the allegations in the Petition for Review, including citations to the administrative record. (3-24-22)( )

c. ~~A~~ sStatement ~~regarding~~ whether the party ~~desires~~ requests an opportunity for oral argument. (3-24-22)( )

**09. Response Briefs.** Unless an alternative date is set by the Hearing Authority, the Department and all other parties must file response briefs within twenty-eight (28) days of the service of the petitioner's brief. In addition to meeting the requirements of Subsection 204.06, the response briefs must include: ( )

a. ~~A~~ rResponse to the arguments and assertions in the petitioner's brief (either in support or opposed); (3-24-22)( )

b. ~~A~~ citation to ~~all~~ legal authorities and facts in the administrative record relied upon; and (3-24-22)( )

c. ~~A~~ sStatement ~~regarding~~ whether the party ~~desires~~ requests an opportunity for oral argument. (3-24-22)( )

**10. Reply Briefs by the Petitioner.** Unless an alternative date is set by the Hearing Authority, the petitioner may file a reply brief within fourteen (14) days after service of response briefs. A petitioner may not raise new issues or arguments in the reply. ( )

**11. Representation of Parties.** Unless otherwise authorized or required by law, appearances and representation of parties or other persons ~~shall be~~ are as follows: (3-24-22)( )

a. A natural person may represent himself or herself or be represented by an attorney or, if the person lacks full legal capacity to act for himself or herself, then by a legal guardian or guardian ad litem or representative of an estate; ( )

b. ~~A~~ general partnership may be represented by a partner or an attorney; (3-24-22)( )

c. ~~A~~ corporation, or any other business entity other than a general partnership, must be represented by an attorney; (3-24-22)( )

d. ~~A~~ municipal corporation, local government agency, unincorporated association or nonprofit organization must be represented by an attorney; or (3-24-22)( )

e. ~~A~~ sState, federal, or tribal governmental entity or agency must be represented by an attorney.



(3-24-22)( )

12. **Substitution and Withdrawal of Representatives.** A party's representative may be changed and a new representative may be substituted by notice to all parties ~~so long as~~ if the proceedings are not unreasonably delayed. Representatives who wish to withdraw from a proceeding must immediately file a motion to withdraw representation and serve that motion on the party represented and all other parties. (3-24-22)( )

13. **Filing and Service Requirements.** ( )

a. ~~All d~~Documents ~~concerning actions governed by these rules~~ must be filed with the Hearing Coordinator ~~at the following address: Hearing Coordinator, Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706. Documents may also be filed by fax or may be filed electronically. The Hearing Coordinator's fax number and email address for filing electronically are~~ and may be filed by email, US mail, hand-delivery, or fax. The Hearing Coordinator assigns case docket numbers, maintains case records, and issues notices on behalf of the Department. Information for filing documents is available at [www.deq.idaho.gov/petitions-for-review](http://www.deq.idaho.gov/petitions-for-review). The documents are deemed to be filed on the date received by the Hearing Coordinator. Upon receipt of the filed document, the Hearing Coordinator will provide confirmation to the originating party. (3-24-22)( )

b. ~~All d~~Documents ~~subsequent to~~ filed after the petition must be served on all parties or representatives, unless otherwise directed by the Hearing Authority. (3-24-22)( )

c. Service of documents on the named representative is valid service upon the party for all purposes in the proceeding. ( )

14. **Proof of Service.** Every document meeting ~~the requirements~~ conditions for service must be attached to or accompanied by proof of service ~~containing the following certificate: A certificate of service template is available at <https://www.deq.idaho.gov/public-information/laws-guidance-and-orders/petitions-for-review-and-precedential-orders>~~

I hereby certify that on this (insert date), a true and correct copy of the foregoing (insert name of document) was served on the following as indicated below:

(insert names and addresses of parties and method of delivery (first class U.S. mail, facsimile, hand-delivery, or overnight express))

(Signature)

(3-24-22)( )

15. **Motions.** A request for an interlocutory or procedural order or other relief must be made by written motion unless these rules prescribe another form. ( )

a. A motion must specifically state ~~with particularity~~ the grounds for the motion, the relief sought, and the legal argument ~~necessary to~~ supporting the motion. ~~In advance of~~ Before filing a motion, parties must attempt to ascertain whether the other parties concur or object to the motion and ~~must~~ indicate in the motion the attempt made and the response obtained. (3-24-22)( )

b. Any party may file a response to a motion. Responses must specifically state ~~with particularity~~ the grounds for opposition and the legal argument ~~necessary to~~ supporting the motion. The response must be filed within fifteen (15) days after service of the motion unless the Hearing Authority shortens or extends the time for response. (3-24-22)( )

c. Any reply to a response must be filed within ten (10) days after service of the response. A reply must not introduce ~~any~~ new issues or arguments and may respond only to matters presented in the response. (3-24-22)( )

d. The Hearing Authority may act on a motion for a procedural order at any time without ~~awaiting~~ a

response. (3-24-22)( )

e. Parties must file motions for extensions of time ~~sufficiently in advance of~~ before the due date to allow other parties ~~to have a~~ reasonable opportunity to respond to the request for more time and to provide the Hearing Authority with a reasonable opportunity to issue an order ~~prior to~~ before the due date. (3-24-22)( )

16. **Oral Argument.** The Hearing Authority may hold oral argument on its own initiative or at its discretion in response to a request by one or more of the parties. ( )

17. **Withdrawal of Permit or Portions of Permit by the Department.** The Department may, at any time, upon notification to the Hearing Authority and all parties, withdraw the permit or specified portions of the permit and prepare a new draft permit under Section 108-~~(Draft Permit and Fact Sheet)~~ addressing the portions ~~so~~ withdrawn. The new draft permit ~~must~~ will proceed through the same process of public comment and opportunity for a public meeting as ~~would apply to any~~ other draft permits. If applicable, ~~any~~ portions of the permit that are not withdrawn continue to apply, unless stayed under Sections 205 (Contested Permit Conditions) and 206 (Stays of Contested Permit Conditions). ~~The~~ For those portions of the permit that DEQ does not withdraw that are part of the appeal, the appeal ~~shall~~ will continue ~~with respect to those portions of the permit that are contested in the appeal that the Department does not withdraw.~~ (3-24-22)( )

18. **Request to Dismiss Petition.** The petitioner, by motion, may request ~~to have~~ the Hearing Authority to dismiss its appeal. The motion must ~~briefly~~ state the reason for its request. (3-24-22)( )

19. **Burden of Proof.** The petitioner has the burden of proving the allegations in the Petition for Review. Factual allegations must be proven by a preponderance of the evidence. ( )

20. **Appointment of Hearing Officers.** The Hearing Authority ~~shall~~ will be a Hearing Officer appointed by the Director from a pool of Hearing Officers approved by the Board. Hearing Officers should be persons with technical expertise or experience in the issues involved in IPDES appeals. Notice of appointment of a Hearing Officer ~~shall~~ will be served on all parties. No Hearing Officer ~~shall~~ will be appointed ~~that who~~ has a conflict of interest as defined in 40 CFR 123.25(c). (3-24-22)( )

21. **Scope of Authority of the Hearing Authority.** The Hearing Authority ~~shall have the following~~ has authority: (3-24-22)( )

a. ~~The authority~~ To set schedules and take ~~such~~ other actions to ensure an efficient and orderly adjudication of the issues raised in the Petition for Review; (3-24-22)( )

b. ~~The authority~~ To hear and decide motions; and (3-24-22)( )

c. ~~The authority~~ To issue an order that decides the issues raised in the appeal, ~~and includes~~ including findings of fact and conclusions of law. The required contents of an order are ~~set forth~~ stated in Subsection 204.24. (3-24-22)( )

22. **Ex Parte Communications.** The Hearing Authority ~~shall~~ must not communicate, directly or indirectly, regarding ~~any~~ substantive issues in the permit appeal with any party, except upon notice and opportunity for all parties to participate in the communication. The Hearing Authority may communicate ex parte with a party concerning procedural matters (e.g., scheduling). When the Hearing Authority becomes aware of a written ex parte communication regarding ~~any~~ substantive issue from a party or representative of a party during an appeal, the Hearing Authority shall place a copy of the communication in the ~~case file for the case~~ and order the party providing the written communication to serve a copy of the written communication upon all parties of record. Written communications from a party showing service upon all other parties are not ex parte communications. (3-24-22)( )

23. **Alternative Dispute Resolution.** Parties to the permit appeal may agree to use ~~a means of~~ alternative dispute resolution. (3-24-22)( )

24. **Final Orders.** (3-24-22)

~~a.~~ Final orders are issued by the Hearing Authority upon review of the petitions, briefs, and the administrative record on appeal. Motions for reconsideration of a final order will not be considered. (3-24-22)

~~b.~~ Every final order ~~shall~~ must contain the following: (3-24-22)( )

~~i.a.~~ A reasoned statement in support of the decision; ( )

~~ii.b.~~ Findings of fact, with reference to the portions of the administrative record that support the findings. The findings of fact must be based exclusively on the administrative record, or if augmented during the appeal, the augmented record; ( )

~~iii.c.~~ Conclusions of law with respect to legal issues raised in the appeal; ( )

~~iv.d.~~ The final order ~~shall~~ must either affirm the permitting decision, or vacate and remand the decision to the Department with instructions; and (3-24-22)( )

~~v.e.~~ A statement of the right to judicial review as ~~set forth~~ stated in Section 204.26. (3-24-22)( )

~~e.~~ Motions for reconsideration of any final order shall not be considered. (3-24-22)

**25. Final Agency Action for Purposes of Judicial Review.** ( )

a. Filing a Petition for Review is a prerequisite to seeking judicial review of the Department's permitting decision. ( )

b. For ~~purposes of~~ judicial review under Sections 39-107 and 67-5270, Idaho Code, final agency action or determination regarding an appeal of a permit occurs when a final order that affirms the Department's permitting decision is issued. (3-24-22)( )

c. An order that vacates and remands the decision to the Department with instructions is not a final agency action for ~~purposes of~~ judicial review. (3-24-22)( )

**26. Petition for Judicial Review.** (3-24-22)( )

a. Any person aggrieved by a final agency action or determination by the Department as defined in Subsection 204.25 has a right to judicial review by filing a petition for judicial review. ( )

b. The petition for judicial review must be: ( )

~~i.~~ ~~Filed with the Hearing Coordinator as set out in accordance with~~ Subsection 204.13 and with the district court ~~and served on all parties pursuant to Section 67-5272, Idaho Code. The petition for judicial review shall also be;~~ and ( )

~~ii.~~ ~~Served up on the Hearing Authority, all parties, the Director of the Department, and upon the Attorney General of the State of Idaho. Pursuant to Section 67-5272, Idaho Code, petitions for judicial review may be filed in the District Court of the county in which:~~ (3-24-22)

~~i.~~ ~~The hearing was held;~~ (3-24-22)

~~ii.~~ ~~The final agency action was taken;~~ (3-24-22)

~~iii.~~ ~~The party seeking review of the agency action resides; or~~ (3-24-22)

~~iv.~~ ~~The real property or personal property that was the subject of the agency action is located.~~ (3-24-22)( )

c. Pursuant to Section 67-5273, Idaho Code, a petition for judicial review of a final agency action must be filed within twenty-eight (28) days of the service date of a final order issued by the Hearing Authority. ( )

**27. IPDES General Permits. ( )**

a. Persons affected by an IPDES general permit may not file a petition under this section or otherwise challenge the conditions of a general permit in further Department proceedings. Instead, they may ~~do either of the following:~~ (3-24-22)( )

i. Challenge the conditions in a general permit by filing an action in court; or ( )

ii. Apply for an individual IPDES permit under Section 105 ~~(Application for an Individual IPDES Permit)~~, as authorized in Section 130 ~~(General Permits)~~, and may then petition the Hearing Authority to review the individual permit ~~as provided by in these rules.~~ (3-24-22)( )

b. As provided in Subsection 130.05.c., any interested person may also petition the Department to require an individual IPDES permit for any discharger eligible for authorization to discharge under an IPDES general permit. ( )

c. The Department's decision to terminate, revoke or deny coverage under a general permit and to require application for an individual permit may be appealed ~~pursuant to the provisions of~~ under Section 204 ~~(Appeals Process).~~ (3-24-22)( )

**28. Appeals of Variances. ( )**

a. When the Department issues a permit on which EPA has made a variance decision, separate appeals of the Department permit and ~~of the~~ EPA variance decision are possible. If the owner or operator is challenging the same issues in both proceedings, the EPA Region 10 Administrator will decide, in consultation with the Department, which case will be heard first. (3-24-22)( )

b. Variance decisions made by EPA may be appealed under the provisions of 40 CFR 124.19. ( )

c. Stays for variances other than ~~Clean Water Act section~~ CWA Section 301(g) variances are governed by Section 205 ~~(Contested Permit Conditions)~~ and 206 ~~(Stays of Contested Permit Conditions)~~. (3-24-22)( )

**205. CONTESTED PERMIT CONDITIONS.**

**01. Force and Effect of Conditions.** As provided in Subsection 206.01, if an appeal of a permit decision is filed under Section 204 ~~(Appeals Process)~~, the force and effect of the contested conditions of the permit are stayed until final Department action. The Department ~~must will~~ notify the discharger and ~~all~~ interested parties of the uncontested conditions of the permit that are enforceable obligations of the discharger in accordance with Subsection 206.01.c. (3-24-22)( )

**02. Control Technologies.** When effluent limitations are contested, but the underlying control technology is not, the notice ~~must will~~ identify the installation of the technology in accordance with the ~~permit~~ compliance schedules as an uncontested, enforceable obligation of the permit. (3-24-22)( )

**03. Combination of Technologies.** When a combination of technologies is contested, but a portion of the combination is not contested, that portion must be identified as uncontested if compatible with the combination of technologies proposed by the requester. ( )

**04. Inseverable Conditions.** Uncontested conditions, if inseverable from a contested condition, must be considered contested. ( )

**05. Enforceable Dates.** Uncontested conditions become enforceable thirty (30) days after the date of

notice under Subsection 205.01. ( )

**06. Uncontested Conditions.** Uncontested conditions include: ( )

a. Preliminary design and engineering studies or other requirements necessary to achieve the final permit conditions ~~which that~~ do not entail substantial expenditures; and (3-24-22)( )

b. Permit conditions ~~which will have to~~ that must be met regardless of the outcome of the appeal under Section 204 (~~Appeals Procedure~~). (3-24-22)( )

**206. STAYS OF CONTESTED PERMIT CONDITIONS.**

**01. Stays.** ( )

a. If a Petition for Review of an IPDES permit under Section 204 (~~Appeals Process~~) is filed, the ~~effect of the~~ contested permit conditions are stayed pending final Department action. Uncontested permit conditions are stayed only until the date specified in Subsection 206.01.b. If the permit involves a new facility or new injection well, new source, new discharger or a recommencing discharger, the applicant will not be issued a permit for the proposed new facility, injection well, source, or discharger pending final Department action. (3-24-22)( )

b. Uncontested conditions ~~which that~~ are not severable from those contested are stayed together with the contested conditions. The Department ~~must will~~ identify the stayed provisions of permits for existing facilities, injection wells, and sources. ~~All o~~Other provisions of the permit for the existing facility, injection well, or source become fully effective and enforceable thirty (30) days after the date of the notification required in Subsection 206.01.c. (3-24-22)( )

c. As soon as possible after receiving notification from the Hearing Coordinator of the filing of a Petition for Review, the Department ~~must will~~ notify the Hearing Authority, ~~the~~ applicant, and ~~all~~ other parties of the uncontested (and severable) conditions of the final permit that will become fully effective, enforceable obligations of the permit ~~as of on~~ the date specified in Subsection 206.01.b., and the notice must comply with the requirements of Section 205 (~~Contested Permit Conditions~~). (3-24-22)( )

**02. Stays Based on Cross Effects.** ( )

a. The Department may grant a stay based on the grounds that an appeal to the Hearing Authority under Section 204 (~~Appeals Process~~) of one permit may result in changes to another Department-issued IPDES permit only when each of the permits involved has been appealed to the Department. (3-24-22)( )

b. No stay of an EPA-issued NPDES permit may be granted based on the staying ~~ing~~ of ~~any~~ Department-issued IPDES permit except at the discretion of the EPA Region 10 Administrator and only upon written request from the Department. (3-24-22)( )

**03. Permittee Responsibilities.** Any facility or activity holding an existing permit must: ( )

a. Comply with the conditions of ~~that~~ permit during any modification or revocation and reissuance proceeding under Section 201 (~~Modification, or Revocation and Reissuance of IPDES Permits~~); and (3-24-22)( )

b. To the extent conditions of ~~any~~ new permit are stayed ~~under this section~~, comply with the conditions of the existing permit ~~which~~ correspond to the stayed conditions, unless compliance with the existing conditions ~~would be is~~ technologically incompatible with compliance with other new permit conditions ~~of the new permit which that~~ have not been stayed. (3-24-22)( )

**207. -- 299. (RESERVED)**

**300. CONDITIONS APPLICABLE TO ALL PERMITS.**

The following conditions apply to all IPDES permits. Additional conditions ~~applicable to IPDES permits~~ are in

Sections 301 (Permit Conditions for Specific Categories), 302 (Establishing Permit Provisions), and 40 CFR 122.42(e). All applicable conditions ~~applicable to IPDES permits~~ will be incorporated into the IPDES permits either expressly or by reference. If incorporated by reference, a specific citation must be given in the permit.

(3-24-22)( )

- 01. Duty to Comply.** The permittee must comply with all conditions of the permit. ( )
- a.** Any ~~p~~ Permit noncompliance constitutes a violation of Idaho law, the Clean Water Act CWA, and is grounds for: (3-24-22)( )
- i. Enforcement action; ( )
- ii. Permit termination, revocation and reissuance, or modification; or ( )
- iii. Denial of a permit renewal application. ( )
- b.** The permittee ~~shall~~ must comply with effluent standards or prohibitions established under ~~the Clean Water Act section CWA Section~~ CWA Section 307(a) for toxic pollutants and with standards for sewage sludge use or disposal established under ~~the Clean Water Act section CWA Section~~ CWA Section 405(d), Section 380 ~~(Sewage Sludge)~~ of these rules, and IDAPA 58.01.16.650, “Wastewater Rules,” within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not ~~yet~~ been modified to incorporate the requirement. (3-24-22)( )
- 02. Duty to Reapply.** If the permittee wishes to continue an activity regulated by the permit after the permit’s expiration date ~~of the permit~~, the permittee must apply for and obtain a new permit. If the permittee complies with the application requirements of Section 105 ~~(Application for an Individual IPDES Permit)~~, or the notice of intent requirements of Section 130 ~~(General Permits)~~ for a general permit, and a permit is not issued ~~prior to~~ before the permit’s expiration date, the permit ~~shall~~ remains in force as stipulated in Subsections 101.02 and 101.03. (3-24-22)( )
- 03. Need to Halt or Reduce Activity.** In an enforcement action, a permittee may not assert as a defense that compliance with the conditions of the permit ~~would have made it necessary for~~ requires the permittee to halt or reduce the permitted activity. (3-24-22)( )
- 04. Duty to Mitigate.** The permittee ~~shall~~ must take all reasonable steps to minimize or prevent ~~any~~ discharge or sludge use or disposal in violation of the permit ~~which that~~ that has a reasonable likelihood of adversely affecting human health or the environment. (3-24-22)( )
- 05. Proper Operation and Maintenance.** ~~The~~ At all times, permittee ~~shall at all times~~ must properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) ~~which that~~ are installed or used by the permittee to achieve compliance with the conditions of the permit. (3-24-22)( )
- a.** Proper operation and maintenance ~~also~~ includes adequate laboratory controls and appropriate quality assurance procedures. (3-24-22)( )
- b.** This provision requires ~~the operation of~~ operating back-up or auxiliary facilities or similar systems, ~~which are~~ installed by a permittee, only when ~~the operation is necessary~~ needed to achieve compliance with the conditions of the permit or ~~are~~ required by IDAPA 58.01.16 “Wastewater Rules.” (3-24-22)( )
- 06. Permit Actions.** The permit may be modified, revoked and reissued, or terminated for cause. The permittee filing ~~of~~ a request ~~by the permittee~~ for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition. (3-24-22)( )
- 07. Property Rights.** The permit does not convey any property rights of any sort; or ~~any~~ exclusive privilege. (3-24-22)( )
- 08. Duty to Provide Information.** The permittee ~~shall~~ must furnish ~~to the Department~~ information,

within a reasonable time, ~~any information which that~~ the Department ~~may~~ requests to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. The permittee ~~shall also~~ must furnish ~~to the Department~~ upon Department request, copies of records required ~~to be kept~~ by the permit. (3-24-22)( )

**09. Inspection and Entry.** The permittee ~~shall~~ must provide the Department's inspectors, or authorized representatives, including authorized contractors acting as representatives of the Department, upon ~~presentation of presenting~~ credentials ~~and other documents as may be~~ required by law, access to: (3-24-22)( )

a. Enter ~~upon~~ the permittee's premises where a regulated facility or activity is located or conducted, or where records ~~must be are~~ kept under the permit conditions ~~of the permit~~; (3-24-22)( )

b. ~~Any r~~Records that must be kept under the permit conditions ~~of the permit~~ and, at reasonable times, to copy ~~such the~~ records; (3-24-22)( )

c. Inspect, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under the permit; and ( )

d. Sample or monitor at reasonable times, ~~for the purposes of assuring to ensure~~ permit compliance or as otherwise authorized by the ~~Clean Water Act CWA~~, any substances or parameters at any location. (3-24-22)( )

**10. Monitoring and Records.** A permittee must comply with the following ~~monitoring and recordkeeping conditions~~: (3-24-22)( )

a. Samples and measurements ~~taken for the purpose of monitoring shall be~~ must representative of the monitored activity. (3-24-22)( )

b. ~~The p~~Permittee ~~shall~~ must retain ~~the following records~~: (3-24-22)( )

i. ~~All m~~Monitoring information; ~~for a period of~~ at least three (3) years from the date of the sample, measurement, report or application. This ~~period~~ may be extended by request of the Department at any time; and (3-24-22)( )

ii. ~~The permittee's~~Records of sewage sludge use and disposal activities ~~shall be retained for a period of~~ at least five (5) years or longer as required by 40 CFR Part 503. (3-24-22)( )

c. Records of monitoring information ~~shall~~ must include: (3-24-22)( )

i. ~~All e~~Calibration and maintenance records; (3-24-22)( )

ii. ~~All e~~Original strip chart recordings for continuous monitoring instrumentation or other forms of data approved by the Department; (3-24-22)( )

iii. Copies of ~~all~~ reports required by the permit; (3-24-22)( )

iv. Records of all data used to complete the application or notice of intent for the permit; ( )

v. ~~The d~~Date, exact place, and time of sampling or measurements; (3-24-22)( )

vi. ~~The n~~Names of any individual(s) who performed the sampling or measurements; (3-24-22)( )

vii. ~~The date(s) any~~Dates analyses were performed; (3-24-22)( )

viii. ~~The n~~Names of any individual(s) who performed the analyses; (3-24-22)( )

ix. ~~The a~~Analytical techniques or methods used; and (3-24-22)( )

- x. ~~The r~~Results of the analysis. (3-24-22)( )
- d. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 unless another test method is required by 40 CFR Parts 401 through 471 or ~~Part~~ 501 through 503. (3-24-22)( )
11. **Signatory Requirements.** ~~All a~~Applications, reports, or information submitted to the Department ~~shall must~~ be signed and certified in accordance with Section 090 ~~(Signature Requirements) and must include penalty provisions pursuant to Section 500 (Enforcement).~~ (3-24-22)( )
12. **Reporting Requirements.** ( )
- a. The permittee must give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility if: ( )
- i. The alteration or addition to a permitted facility ~~may meets~~ one (1) of the criteria for determining whether a facility is a new source as defined in Section 120 ~~(New Sources and New Discharges)~~ and 010 ~~(Definitions)~~; (3-24-22)( )
- ii. The alteration or addition ~~could may~~ significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants ~~which are not~~ subject ~~neither~~ to effluent limitations in the permit, ~~n~~ or to notification requirements under Subsection 301.01.a.; or (3-24-22)( )
- iii. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and ~~such the~~ alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites: (3-24-22)( )
- (1) Not reported during the permit application process, or ( )
- (2) Not reported ~~pursuant to~~ under an approved land application or sludge disposal plan. (3-24-22)( )
- b. The permittee must give advance notice to the Department of ~~any~~ planned changes in the permitted facility or activity ~~which that~~ may result in noncompliance with permit requirements. (3-24-22)( )
- c. The permit is not transferable to any person except after notice to the Department. The Department may modify or revoke and reissue a permit to change the name of the permittee and incorporate ~~such~~ other requirements ~~as may be~~ necessary under Section 202 ~~(Transfer of IPDES Permits)~~. (3-24-22)( )
- d. Monitoring results must be reported at the intervals specified in the permit and meet the following requirements: ( )
- i. Monitoring results will be reported on a Discharge Monitoring Report (DMR) or forms (~~which~~ may be electronic) provided or specified by the Department for reporting results of monitoring of sludge use or disposal practices. ~~All r~~Reports and forms ~~submitted in compliance with this section~~ must be submitted electronically by the permittee to the Department ~~in compliance to comply~~ with this section and 40 CFR Part 127 unless waived ~~pursuant to under~~ 40 CFR 127.15. 40 CFR Part 127 ~~is not intended to undo~~ does not eliminate existing requirements for electronic reporting. ~~Prior to this date, and i~~ndependent of 40 CFR Part 127, permittees may be required to report electronically if specified by a particular permit. (3-24-22)( )
- ii. If the permittee monitors ~~any~~ pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136, or another method required for an industry-specific waste stream specified in the permit or under 40 CFR Parts 401 through 471 or ~~Part~~ 501 through ~~Part~~ 503, the results ~~of such monitoring will must~~ be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Department. (3-24-22)( )
- iii. Calculations for all limitations ~~which that~~ require averaging of measurements will utilize an



arithmetic mean unless otherwise specified by the Department in the permit. (3-24-22)( )

e. A permittee must submit reports of compliance or noncompliance with, or ~~any~~ progress reports on, interim and final requirements contained in ~~any the~~ compliance schedule ~~of the permit~~ no later than fourteen (14) days following each schedule date of each requirement. ~~As of December 21, 2020, all r~~Reports related to combined sewer overflows, sanitary sewer overflows, or bypass events ~~submitted in compliance with this section~~ must be submitted electronically by the permittee to the Department in compliance with this section and 40 CFR Part 127 unless waived ~~pursuant to under~~ 40 CFR 127.15. 40 CFR Part 127 ~~is not intended to undo~~ ~~does not eliminate~~ existing requirements for electronic reporting. ~~Prior to this date, and i~~Independent of 40 CFR Part 127, permittees may be required to electronically submit reports related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section by a particular permit. The Director may also require permittees to electronically submit reports not related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section. (3-24-22)( )

f. The permittee must report to the Department any noncompliance ~~which that~~ may endanger health or the environment as follows: (3-24-22)( )

i. Within twenty-four (24) hours from the time the permittee becomes aware of the circumstances, provide any information orally; ( )

ii. Within five (5) days from the time the permittee becomes aware of the circumstances, provide a written submission that contains a description of: ( )

(1) ~~The n~~Noncompliance and its cause; (3-24-22)( )

(2) ~~The p~~Period of noncompliance, including exact dates and times; (3-24-22)( )

(3) If the noncompliance has not been corrected, the anticipated time it is expected to continue; and ( )

(4) Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance; ( )

(5) For noncompliance events related to combined sewer overflows, sanitary sewer overflows, or bypass events, these reports must include the data described in Subsections 300.12.f.ii(1) through (4), ~~as well as the~~ type of event (combined sewer overflows, sanitary sewer overflows, or bypass events), type of sewer overflow structure (e.g., manhole, combine sewer overflow outfall), discharge volumes untreated by the treatment works treating domestic sewage, types of human health and environmental impacts of the sewer overflow event, and whether the noncompliance was related to wet weather. (3-24-22)( )

(6) ~~As of December 21, 2020, all r~~Reports related to combined sewer overflows, sanitary sewer overflows, or bypass events ~~submitted in compliance with this section~~ must be submitted electronically by the permittee to the Department in compliance with this section and 40 CFR Part 127 unless waived ~~pursuant to under~~ 40 CFR 127.15. 40 CFR Part 127 ~~is not intended to undo~~ ~~does not eliminate~~ existing requirements for electronic reporting. ~~Prior to this date, and i~~Independent of 40 CFR Part 127, permittees may be required to electronically submit reports related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section by a particular permit. The Director may also require permittees to electronically submit reports not related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section. (3-24-22)( )

iii. The following information must be reported within twenty-four (24) hours: ( )

(1) ~~Any u~~Unanticipated bypass ~~which that~~ exceeds ~~any~~ effluent limitations in the permit (see Subsection 300.07, Property Rights); (3-24-22)( )

(2) ~~Any u~~Upset ~~which that~~ exceeds ~~any~~ effluent limitations in the permit; and (3-24-22)( )

(3) Violation of a maximum daily discharge limitation for ~~any of~~ the pollutants listed by the

Department in the permit to be reported within twenty-four (24) hours (~~see~~ Subsection 302.09, Twenty-Four Hour Reporting); and (3-24-22)( )

iv. The Department may waive the written report on a case-by-case basis ~~for reports~~ under Subsection 300.12.f.iii. if the oral report has been received within twenty-four (24) hours. (3-24-22)( )

g. The permittee must report ~~all~~ instances of noncompliance not reported under Subsections 300.12.d., e., and f., ~~at the time when the~~ monitoring reports are submitted. The reports of noncompliance must contain the information listed in Subsection 300.12.f. ~~As of December 21, 2020, all r~~ Reports related to combined sewer overflows, sanitary sewer overflows, or bypass events ~~submitted in compliance with this section~~ must be submitted electronically by the permittee to the Department in compliance with this section and 40 CFR Part 127 unless waived ~~pursuant to under~~ 40 CFR 127.15. 40 CFR Part 127 ~~is not intended to undo~~ **does not eliminate** existing requirements for electronic reporting. ~~Prior to this date, and i~~ Independent of 40 CFR Part 127, permittees may be required to electronically submit reports related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section by a particular permit. The Director may also require permittees to electronically submit reports not related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section. (3-24-22)( )

h. ~~When~~ the permittee becomes aware that it failed to submit ~~any~~ relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it must promptly submit ~~such the~~ facts or correct information. (3-24-22)( )

**13. Bypass Terms and Conditions.** ( )

a. Bypass, as defined in Section 010-~~(Definitions)~~, is prohibited, and the Department may take enforcement action against a permittee for bypass, unless: (3-24-22)( )

i. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; ( )

ii. ~~There were n~~ No feasible alternatives to the bypass ~~existed~~, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if ~~under reasonable judgment~~, adequate back-up equipment should have been installed ~~in the exercise of reasonable engineering judgment~~ to prevent a bypass ~~which occurred from occurring~~ during normal periods of equipment downtime or preventive maintenance; and (3-24-22)( )

iii. The permittee submitted a notice of a bypass to the Department in accordance with Subsections 300.13.c. and d. ~~As of December 21, 2020, all n~~ Notices ~~submitted in compliance with this section~~ must be submitted electronically by the permittee to the Department in compliance with this section and 40 CFR Part 127 unless waived ~~pursuant to under~~ 40 CFR 127.15. 40 CFR Part 127 ~~is not intended to undo~~ **does not eliminate** existing requirements for electronic reporting. ~~Prior to this date, and i~~ Independent of 40 CFR Part 127, permittees may be required to report electronically if specified by a particular permit. (3-24-22)( )

b. The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines ~~that~~ it will meet the three (3) conditions listed in Subsection 300.13.a. (3-24-22)( )

c. If the permittee knows in advance of the need for a bypass, it ~~shall~~ **must** submit ~~prior~~ notice to the Department, if possible, at least ten (10) days before the date of the bypass. (3-24-22)( )

d. The permittee ~~shall~~ **must** submit notice of an unanticipated bypass as required in Subsection 300.12.f. (24-hour notice). (3-24-22)( )

e. Bypasses not exceeding limit~~ation~~s, are allowed to occur, and are not subject to Subsection 300.13.a. or 300.13.d. if: (3-24-22)( )

i. The bypass does not cause effluent limit~~ation~~s to be exceeded, and (3-24-22)( )

- ii. Only if it also is for essential maintenance to ~~as~~ ensure efficient operation. (3-24-22)( )

**14. Upset Terms and Conditions.** ( )

a. In any enforcement action for noncompliance with technology-based permit effluent limitations, a permittee may claim upset, as defined in Section 010 (~~Definitions~~), as an affirmative defense. A permittee seeking to establish the occurrence of an upset has the burden of proof. (3-24-22)( )

b. Any determination made in administrative review of a claim that noncompliance was caused by upset, before an action for noncompliance is commenced, is not final administrative action subject to judicial review. ( )

c. The following conditions are necessary for a permittee to demonstrate that an upset occurred. A permittee who wishes to establish the affirmative defense of upset must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that: ( )

- i. An upset occurred and ~~that~~ the permittee can identify ~~the~~ cause(s) of the upset; (3-24-22)( )
- ii. The permitted facility was properly operated at the time ~~being properly operated~~; (3-24-22)( )
- iii. The permittee submitted twenty-four (24)-hour notice of the upset as required Subsection 300.12.f.iii(2); and ( )
- iv. The permittee complied with ~~any~~ remedial measures required under Subsection 300.04. (3-24-22)( )

**15. Penalties and Fines.** Permits ~~must~~ will include penalty and fine requirements ~~pursuant to~~ under Section 500 (~~Enforcement~~). (3-24-22)( )

**301. PERMIT CONDITIONS FOR SPECIFIC CATEGORIES.**

In addition to ~~conditions set forth in~~ Section 300 (~~Conditions Applicable to all Permits~~), conditions identified in this section apply to all IPDES permits within the categories specified below. (3-24-22)( )

**01. Existing Manufacturing, Commercial, Mining, and Silvicultural Dischargers.** In addition to the reporting requirements under Subsection 300.12, all existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Department as soon as they know or have reason to believe: ( )

a. ~~That a~~ Any activity has occurred or will occur ~~which would that~~ results ~~in the a~~ discharge, on a routine or frequent basis, of any toxic pollutant ~~which that~~ is not limited in the permit if ~~that e~~ discharge will exceed the highest of the following notification levels: (3-24-22)( )

- i. One hundred micrograms per liter (100 µg/L); ( )
- ii. Two hundred micrograms per liter (200 µg/L) for acrolein and acrylonitrile; ( )
- iii. Five hundred micrograms per liter (500 µg/L) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and ( )
- iv. One milligram per liter (1 mg/L) for antimony; ( )
- v. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Subsection 105.07; or ( )
- vi. The level established by the Department in accordance with Subsection 302.08; and ( )

b. ~~That a~~ Any activity has occurred or will occur ~~which would that~~ results in any discharge, on a non-routine or infrequent basis, of a toxic pollutant ~~which that~~ is not limited in the permit if ~~that e~~ discharge will exceed

the highest of the following notification levels: (3-24-22)( )

- i. Five hundred micrograms per liter (500 µg/L); ( )
- ii. One milligram per liter (1 mg/L) for antimony; ( )
- iii. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with Subsection 105.07; or ( )
- iv. The level established by the Department in accordance with Subsection 302.08. ( )

**02. Publicly Owned Treatment Works.** ~~All~~ POTWs must provide adequate notice to the Department of ~~the following~~: ( )

a. ~~Any n~~New introduction of pollutants into the POTW from an indirect discharger ~~which would be~~ subject to ~~the Clean Water Act section~~ CWA Section 301 or 306 if it were directly discharging those pollutants; and (3-24-22)( )

b. ~~Any s~~Substantial change in the volume or character of pollutants ~~being~~ introduced into ~~that~~e POTW by a source introducing pollutants into the POTW ~~at the time of issuance of the~~ during permit issuance. For ~~purposes of~~ this subsection, adequate notice ~~shall~~ must include ~~information on~~: (3-24-22)( )

- i. ~~The q~~Quality and quantity of effluent introduced into the POTW, and (3-24-22)( )
- ii. ~~Any a~~Anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW. (3-24-22)( )

**03. Municipal Separate Storm Sewer Systems (MS4s).** The operator of a large or medium ~~municipal separate storm sewer system~~ MS4 or an ~~municipal separate storm sewer that has been~~ MS4 designated by the Department under 40 CFR 122.26(a)(1)(v) must submit an annual report by the anniversary of the date of the issuance of the permit ~~for such system~~. ~~As of December 21, 2020, a~~ All reports ~~submitted in compliance with this section~~ must be submitted electronically by the owner, operator, or the duly authorized representative of the MS4 to the Department in compliance with this section and 40 CFR Part 127 unless waived ~~pursuant to~~ under 40 CFR 127.15. 40 CFR Part 127 ~~is not intended to undo~~ does not eliminate existing requirements for electronic reporting. ~~Prior to this date, and i~~Independent of 40 CFR Part 127, the owner, operator, or the duly authorized representative of the MS4 may be required to report electronically if specified by a particular permit. The report ~~shall~~ must include: (3-24-22)( )

a. ~~The s~~Status of implementing the components of the storm water management program ~~that are~~ established as permit conditions; (3-24-22)( )

b. Proposed changes to the storm water management programs ~~that are~~ established as permit conditions. ~~Such p~~Proposed changes ~~shall~~ must be consistent with Subsection 105.18.b.iii.; (3-24-22)( )

c. Revisions, if necessary, to the assessment of controls and the fiscal analysis reported in the permit application under Subsection 105.18.b.iv. and 105.18.b.v.; ( )

d. ~~A s~~Summary of data, including monitoring data, ~~that is~~ accumulated throughout the reporting year; (3-24-22)( )

e. Annual expenditures and budget for the year following each annual report; ( )

f. ~~A s~~Summary describing the number and nature of enforcement actions, inspections, and public education programs; and (3-24-22)( )

g. Identification of water quality improvements or degradation. ( )

04. **Storm Water Dischargers.** The initial permits for discharges composed entirely of storm water issued ~~pursuant to~~ under 40 CFR 122.26(e)(7) ~~shall~~ require compliance with the conditions of the permit as expeditiously as practicable but ~~in no event~~ later than three (3) years after the date of ~~permit~~ issuance of the permit. (3-24-22)( )

05. **Concentrated Animal Feeding Operations (CAFOs).** Any applicable permit must include provisions ~~pursuant to~~ under 40 CFR 122.42(e). (3-24-22)( )

**302. ESTABLISHING PERMIT PROVISIONS.**

The Department will establish conditions, as required on a case-by-case basis, to provide for and ensure compliance with ~~all~~ applicable requirements of the ~~Clean Water Act~~ CWA and state rules, including conditions under Section 101 (~~duration of permits~~), Section 305 (~~compliance schedules~~), Section 304 (~~monitoring~~), and electronic reporting requirements identified under 40 CFR Part 127. An IPDES permit ~~must will~~ include conditions meeting the following requirements, when applicable, ~~in addition to other applicable sections of these rules~~. (3-24-22)( )

01. **Incorporation.** ~~All p~~Permit conditions ~~shall will~~ be incorporated ~~either~~ expressly or by reference. If incorporated by reference, a specific citation to the applicable regulations or requirements ~~must will~~ be given in the permit. (3-24-22)( )

02. **Applicable Requirements.** The Department ~~shall will~~ establish conditions, as required on a case-by-case basis, to provide for and ~~as~~ ensure compliance with ~~all~~ applicable requirements of the ~~Clean Water Act~~ CWA and Section 101 (~~Duration~~), and Subsections 304.01, and 305.01 ~~of these rules~~. Applicable requirements include: (3-24-22)( )

a. ~~Applicable requirements include a~~ All statutory or regulatory requirements ~~which that~~ take effect ~~prior to~~ before final administrative disposition of the permit. (3-24-22)( )

b. ~~Applicable requirements also include a~~ Any requirement ~~which that~~ takes effect ~~prior to~~ before the modification or revocation and reissuance of a permit under Section 201 (~~Modification, or Revocation and Reissuance of IPDES Permits~~). (3-24-22)( )

c. New or reissued permits, and to the extent allowed under Section 201 (~~Modification, or Revocation and Reissuance of IPDES Permits~~) for modified or revoked and reissued permits, ~~shall will~~ incorporate each of the applicable requirements referenced in Sections 200 (Renewal of IPDES Permits), and 302 (Establishing Permit Provisions) through 304 (Monitoring and Reporting Requirements). (3-24-22)( )

03. **Technology-Based Effluent Limitations and Standards.** (3-24-22)( )

a. Technology-based effluent limitations and standards shall be based on: (3-24-22)( )

i. Effluent limitations and standards promulgated under ~~the Clean Water Act section~~ CWA Section 301; (3-24-22)( )

ii. New source performance standards promulgated under ~~the Clean Water Act section~~ CWA Section 306; (3-24-22)( )

iii. Effluent limitations determined on a case-by-case basis under ~~the Clean Water Act section~~ CWA Section 402(a)(1); or (3-24-22)( )

iv. ~~A e~~Combination of the three (3), in accordance with 40 CFR 125.3. (3-24-22)( )

b. For new sources or new dischargers, these technology-based limitations and standards are subject to the provisions of 40 CFR 122.29(d). (3-24-22)( )

c. The Department may authorize a discharger, subject to technology-based ~~effluent limitations guidelines~~ ELGs and standards in an IPDES permit, to forgo sampling of a pollutant found at 40 CFR Parts 401 through 471, if the discharger has demonstrated through sampling and other technical factors that the pollutant is not

present in the discharge or is present only at background levels from intake water and without any increase in the pollutant due to activities of the discharger. (3-24-22)( )

i. This waiver is good only for the term of the permit and is not available during the term of the first NPDES or IPDES permit issued to a discharger. (3-24-22)( )

ii. Any request for this waiver must be submitted when applying for a reissued permit or modification of a reissued permit. The request must demonstrate through sampling or other technical information, including information generated during an earlier permit term that the pollutant is not present in the discharge or is present only at background levels from intake water and without any increase in the pollutant due to activities of the discharger. (3-24-22)( )

iii. Any grant of the monitoring waiver approval must will be included in the permit as an express permit condition and the reasons supporting the grant approval must will be documented in the permit's fact sheet. (3-24-22)( )

iv. This provision does not supersede certification processes and requirements already established in existing effluent limitations guidelines ELGs and standards. (3-24-22)( )

**04. Other Effluent Limitations and Standards. (3-24-22)( )**

a. If any applicable toxic effluent limitations and standards under the Clean Water Act sections CWA Section 301, 302, 303, 307, 318, and 405 or prohibition (including any schedules of compliance specified in such effluent standard or prohibition) is are promulgated under the Clean Water Act section CWA Section 307(a) for a toxic pollutant and that standard or prohibition is more stringent than any limitation on the pollutant in the permit, the Department shall will initiate proceedings under Section 201 (Modification, or Revocation and Reissuance of IPDES Permits) to modify or revoke and reissue the permit to conform to the more stringent toxic effluent standard or prohibition (see also Subsection 300.01). (3-24-22)( )

b. Standards for sewage sludge use or disposal under the Clean Water Act section CWA Section 405(d), Section 380 (Sewage Sludge) of these rules, and IDAPA 58.01.16.650, "Wastewater Rules," shall will be applied, unless those standards have been included in a permit issued under the appropriate provisions of: (3-24-22)( )

- i. Subtitle C of the Solid Waste Disposal Act; ( )
- ii. Part C of Safe Drinking Water Act; ( )
- iii. The Clean Air Act; or ( )
- iv. State permit programs approved by the EPA. ( )

c. When there are no applicable standards exist for sewage sludge use or disposal, the permit may include requirements developed on a case-by-case basis to protect public health and the environment from any adverse effects which that may occur from toxic pollutants in sewage sludge. (3-24-22)( )

d. If any applicable standard for sewage sludge use or disposal is promulgated under the Clean Water Act section CWA Section 405(d), Section 380 (Sewage Sludge) of these rules, and IDAPA 58.01.16.650, "Wastewater Rules," and that standard is more stringent than any limitation on the pollutant or practice in the permit, the Department may initiate proceedings under these regulations to modify or revoke and reissue the permit, in compliance to comply with Section 201 (Modification, or Revocation and Reissuance of IPDES Permits), to conform to the standard for sewage sludge use or disposal. (3-24-22)( )

e. Include any requirements applicable to cooling water intake structures under the Clean Water Act section CWA Section 316(b), in accordance with 40 CFR 125.80 through 125.99. (3-24-22)( )

**05. Reopener Clause. For any permit issued to a TWTDS (including sludge-only facilities), the**

Department ~~shall~~ will include a reopener clause to incorporate ~~any~~ applicable standards for sewage sludge use or disposal promulgated under ~~the Clean Water Act section~~ CWA Section 405(d). The Department may promptly modify or revoke and reissue ~~any~~ permit containing the reopener clause required by this subsection if the standard for sewage sludge use or disposal: (3-24-22)( )

- a. Is more stringent than ~~any~~ the requirements for sludge use or disposal in the permit, or (3-24-22)( )
- b. Controls a pollutant or practice not limited in the permit. ( )

**06. Water Quality Standards and Requirements.** ~~Any~~ Rrequirements in addition to or more stringent than promulgated ~~effluent limitations guidelines ELGs~~ or standards under ~~the Clean Water Act sections~~ CWA Sections 301, 304, 306, 307, 318 and 405 ~~shall~~ will be included in a permit if they are necessary to: (3-24-22)( )

a. Achieve water quality standards established in IDAPA 58.01.02, "Water Quality Standards," including narrative criteria for water quality and antidegradation provisions. ( )

i. Effluent limitations in a permit ~~must~~ will control all pollutants or pollutant parameters (either conventional, nonconventional, or toxic pollutants) ~~which~~ the Department determines are or may be discharged at a level ~~which~~ that will cause, have the reasonable potential to cause, or contribute to an excursion above ~~any~~ water quality standards, including narrative criteria for water quality. (3-24-22)( )

ii. When the Department determines whether a discharge causes, has the reasonable potential to cause, or contributes to an in-stream excursion above a narrative or numeric criteria within a water quality standard, the Department ~~shall~~ will use procedures ~~which~~ to account for: (3-24-22)( )

- (1) Existing controls on point and nonpoint sources of pollution; ( )
- (2) ~~The~~ Variability of the pollutant or pollutant parameter in the effluent; (3-24-22)( )
- (3) ~~The~~ Sensitivity of the species to toxicity testing (when evaluating ~~whole effluent toxicity WET~~); (3-24-22)( )  
and where appropriate,
- (4) ~~The~~ dilution of the effluent in the receiving water; (3-24-22)( )

iii. When the Department determines, using the procedures in Subsection 302.06.a.ii., that a discharge causes, has the reasonable potential to cause, or contributes to an in-stream excursion above the allowable ambient concentration of a state numeric criteria within a state water quality standard for an individual pollutant, the permit must contain effluent limits for that pollutant. ( )

iv. When the Department determines, using the procedures in Subsection 302.06.a.ii., that a discharge causes, has the reasonable potential to cause, or contributes to an in-stream excursion above the numeric criterion for ~~whole effluent toxicity WET~~, the permit must contain effluent limits for ~~whole effluent toxicity WET~~. (3-24-22)( )

v. Except as provided in this subsection, when the Department determines, using the procedures in Subsection 302.06.a.ii., toxicity testing data, or other information, that a discharge causes, has the reasonable potential to cause, or contributes to an in-stream excursion above a narrative criterion within an applicable water quality standard, the permit must contain effluent limits for ~~whole effluent toxicity WET~~. Limits on ~~whole effluent toxicity WET~~ are not necessary where the Department demonstrates in the ~~fact sheet of the~~ IPDES permit fact sheet, using the procedures in Subsection 302.06.a.ii., that chemical-specific limits for the effluent are sufficient to attain and maintain applicable numeric and narrative state water quality standards. (3-24-22)( )

vi. When the state has not established a numeric water quality criterion for a specific chemical pollutant that is present in an effluent at a concentration that causes, has the reasonable potential to cause, or contributes to an excursion above a narrative criterion within an applicable state water quality standard, the

Department ~~must~~ will establish effluent limits using one (1) or more of the following options: (3-24-22)( )

(1) ~~Establish effluent limits using a~~ A calculated numeric water quality target or concentration value for the pollutant ~~which that~~ the Department demonstrates will attain and maintain applicable narrative water quality criteria and will fully protect the designated use. ~~Such a~~ A target or concentration value may be derived: (3-24-22)( )

(a) Using a proposed criterion, or an explicit policy or regulation interpreting its narrative water quality criterion, and ( )

(b) Supplemented with other relevant information ~~which that~~ may include EPA's current Water Quality Standards Handbook, ~~as currently revised~~, risk assessment data, exposure data, information about the pollutant from the Food and Drug Administration (FDA), and current EPA criteria documents; (3-24-22)( )

(2) ~~Establish effluent limits on a case-by-case basis, using~~ EPA's water quality recommended criteria, published under ~~the Clean Water Act section~~ CWA Section 304(a), supplemented where necessary by other relevant information; or (3-24-22)( )

(3) ~~Establish effluent limitations on an i~~ndicator parameter for the pollutant of concern, provided the: (3-24-22)( )

(a) ~~The p~~ermit identifies ~~which the~~ pollutants ~~are~~ intended to be controlled by ~~the use of~~ using the effluent limitation; (3-24-22)( )

(b) ~~The r~~required fact sheet ~~sets forth~~ states the basis for the limit, including a finding that compliance with the effluent limit on the indicator parameter will result in controls on the pollutant of concern ~~which that~~ are sufficient to attain and maintain applicable water quality standards; (3-24-22)( )

(c) ~~The p~~ermit requires all effluent and ambient monitoring necessary to show that during the term of the permit the limit on the indicator parameter continues to attain and maintain applicable water quality standards; and (3-24-22)( )

(d) ~~The p~~ermit contains a reopener clause allowing the Department to modify or revoke and reissue the permit if the limits on the indicator parameter no longer attain and maintain applicable water quality standards. (3-24-22)( )

vii. When developing water quality-based effluent limits under this subsection, the Department ~~shall~~ will ensure that the: (3-24-22)( )

(1) ~~The l~~evel of water quality to be achieved by limits on point sources established under this subsection is derived from, and complies with ~~all~~ applicable water quality standards; and (3-24-22)( )

(2) Effluent limits developed to protect a narrative water quality criterion, a numeric water quality criterion, or both, are consistent with the assumptions and requirements of ~~any~~ available wasteload allocations for the discharge prepared by the state and approved by EPA ~~pursuant to~~ under 40 CFR 130.7; (3-24-22)( )

**b.** Attain or maintain a specified water quality through water quality related effluent limits established under ~~the Clean Water Act section~~ CWA Section 302; (3-24-22)( )

**c.** Conform to applicable water quality requirements under ~~the Clean Water Act section~~ CWA Section 402(b)(5) when the discharge affects a state other than Idaho; (3-24-22)( )

**d.** Incorporate ~~any~~ more stringent limitations, treatment standards, or schedules of compliance requirements established under federal or state law or regulations in accordance with ~~the Clean Water Act section~~ CWA Section 301(b)(1)(C); (3-24-22)( )

**e.** Ensure consistency with the requirements of a Water Quality Management plan approved by EPA



under ~~the Clean Water Act section~~ CWA Section 208(b); or (3-24-22)( )

f. Incorporate alternative effluent limitations or standards where warranted by fundamentally different factors, under 40 CFR 125.30 through 125.32. (3-24-22)( )

**07. Technology-Based Controls for Toxic Pollutants. ( )**

a. In determining whether to include limitations on toxic pollutants in a permit under this section, the Department will establish limits in accordance with Subsections 302.03, 302.04, and 302.06 and in a notification under Section 301 (~~Permit Conditions for Specific Categories~~), or other relevant information. The fact sheet must explain the development of limitations included in the permit. (3-24-22)( )

b. An IPDES permit ~~must will~~ include limitations to control all toxic pollutants ~~which~~ the Department determines (based on information reported in a permit application under Subsection 105.07 and 301.01.a., or on other information) are or may be discharged at a level greater than the level ~~which that~~ can be achieved by the technology-based treatment requirements appropriate to the permittee under 40 CFR 125.3(c). (3-24-22)( )

c. The requirement that the limitations control ~~the~~ pollutants meeting the criteria of Subsection 302.07.b. will be satisfied by: (3-24-22)( )

i. Limitations on those toxic pollutants; or (3-24-22)( )

ii. Limitations on other pollutants ~~which that~~, in the judgment of the Department, will ~~provide treatment of~~ the pollutants under Subsection 302.07.b. to the levels required by 40 CFR 125.3(c). (3-24-22)( )

**08. Notification Level.** An IPDES permit ~~must will include a condition~~ requiring a notification level ~~which that~~ exceeds the notification level of Subsection 301.01.a., upon a petition from the permittee or on the Department's initiative. This new notification level may not exceed the level ~~which that~~ can be achieved by the technology-based treatment requirements appropriate to the permittee under 40 CFR 125.3(c). (3-24-22)( )

**09. Twenty-Four (24) Hour Reporting.** A permit will list pollutants ~~for which the~~ a permittee is required to report violations of maximum daily discharge limitations within twenty-four (24) hours under Subsection 300.12.f.iii(3), including ~~any~~ toxic pollutants or hazardous substances, or ~~any~~ pollutants ~~specifically~~ identified as the method to control a toxic pollutant or hazardous substance. (3-24-22)( )

**10. Permit Durations.** Permits must include permit durations ~~pursuant to~~ under Subsection 101.01. (3-24-22)( )

**11. Monitoring Requirements.** Permits ~~must will~~ include monitoring requirements ~~pursuant to~~ under Section 304 (~~Monitoring and Reporting Requirements~~). (3-24-22)( )

**12. Pretreatment Program for POTWs.** A POTW permit ~~must will~~ include pretreatment program conditions requiring the permittee to: ( )

a. Identify, ~~in terms of the~~ character and volume of pollutants, ~~any of~~ Significant Industrial Users discharging into the POTW subject to Pretreatment Standards under ~~the Clean Water Act section~~ CWA Section 307(b) and 40 CFR Part 403; (3-24-22)( )

b. Submit a local program when required by ~~and in accordance with~~ 40 CFR Part 403, to ensure compliance with pretreatment standards to the extent applicable under ~~the Clean Water Act section~~ CWA Section 307(b); (3-24-22)( )

i. ~~The~~ Incorporate the local program ~~shall be incorporated~~ into the permit as described in 40 CFR Part 403, and (3-24-22)( )

ii. ~~The program must require all~~ Require indirect dischargers to the POTW to comply with the reporting requirements of 40 CFR Part 403; (3-24-22)( )

c. Provide written technical evaluation of the need to revise local limits under 40 CFR 403.5(c)(1), following permit issuance or reissuance; and ( )

d. POTWs ~~which that~~ are sludge-only facilities, ~~are required to~~ must develop a pretreatment program under 40 CFR Part 403, when the Department determines that a pretreatment program is necessary to ~~as~~ ensure compliance with ~~the Clean Water Act section~~ CWA Section 405(d). (3-24-22)( )

13. **Best Management Practices.** An IPDES permit ~~must will~~ include ~~best management practices~~ (BMPs) to control or abate the discharge of pollutants when: (3-24-22)( )

a. Authorized under ~~the Clean Water Act section~~ CWA Section 304(e) ~~for the to~~ control of toxic pollutants and hazardous substances from ancillary industrial activities; (3-24-22)( )

b. Authorized under ~~the Clean Water Act section~~ CWA Section 402(p) ~~for the to~~ control of storm water discharges; (3-24-22)( )

c. Numeric effluent ~~limitations~~ are infeasible; or (3-24-22)( )

d. ~~The p~~Practices are ~~reasonably~~ necessary to achieve effluent ~~limitations~~ and standards or to carry out the ~~purposes and intent of the Clean Water Act~~ CWA. (3-24-22)( )

14. **Reissued Permits.** When a permit is renewed or reissued, it ~~must will~~ include provisions ~~pursuant to under~~ Section 200-~~(Renewal of IPDES Permits)~~. (3-24-22)( )

15. **Privately-Owned Treatment Works.** For a privately owned treatment works, ~~any~~ conditions expressly applicable to ~~any~~ users, as a limited co-permittee, ~~that~~ may be necessary in the permit issued to the treatment works to ensure compliance with applicable requirements under this section. (3-24-22)( )

a. Alternatively, the Department may issue separate permits to the treatment works and to its users; or may require a separate permit application from ~~any~~ user. (3-24-22)( )

b. The Department's decision to issue a permit with no conditions applicable to ~~any~~ users, to impose conditions on one (1) or more users, to issue separate permits, or to require separate applications, and the basis for that decision, ~~shall will~~ be stated in the fact sheet for the draft permit for the treatment works. (3-24-22)( )

16. **Grants.** An IPDES permit ~~must will~~ include ~~any~~ conditions imposed in grants made by the EPA to POTWs under ~~the Clean Water Act sections~~ CWA Sections 201 and 204, ~~which that~~ are reasonably necessary ~~for the to~~ achievement of effluent limitations under ~~the Clean Water Act section~~ CWA Section 301. (3-24-22)( )

17. **Sewage Sludge.** An IPDES permit ~~must will~~ include ~~any~~ requirements under ~~the Clean Water Act section~~ CWA Section 405 governing the disposal of sewage sludge from POTWs or ~~any~~ other TWTDS for ~~any use for which uses where~~ regulations have been established, ~~in accordance with any applicable regulations~~. (3-24-22)( )

18. **Navigation.** An IPDES permit ~~must will~~ include ~~any~~ conditions ~~that~~ the Secretary of the Army considers necessary to ensure ~~that~~ navigation and anchorage will not be substantially impaired, in accordance with Subsection 103.04 and 109.02. (3-24-22)( )

19. **Qualifying State or Local Programs.** ( )

a. For storm water discharges associated with small construction activity disturbing one (1) acre or more, but less than five (5) acres as specified in 40 CFR 122.26(b)(15), the Department may include permit conditions that incorporate by reference qualifying state or local erosion and sediment control program requirements. Where a qualifying state or local program does not include one (1) or more of the elements in this subsection, then the Department must include those elements as conditions in the permit. ( )

b. A qualifying state or local erosion and sediment control program ~~is one that~~ includes requirements

for construction site operators to: (3-24-22)( )

i. ~~Requirements for construction site operators to i~~Implement appropriate erosion and sediment control ~~best management practices BMPs;~~ (3-24-22)( )

ii. ~~Requirements for construction site operators to e~~Control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality; (3-24-22)( )

iii. ~~Requirements for construction site operators to d~~Develop and implement a storm water pollution prevention plan, ~~which must include~~ing: (3-24-22)( )

(1) Site descriptions; ( )

(2) Descriptions of appropriate control measures; ( )

(3) Copies of approved state or local requirements; ( )

(4) Maintenance procedures; ( )

(5) Inspection procedures; ( )

(6) Identification of non-storm water discharges; and ( )

iv. Requirements to submit a site plan for review that incorporates consideration of potential water quality impacts. (3-24-22)( )

c. For storm water discharges from a construction activity disturbing five (5) acres or more, including activities that disturb less than five (5) acres but are part of a larger common plan of development or sale that will ultimately disturb five (5) acres or more, as specified in 40 CFR 122.26(b)(14)(x), the Department may include permit conditions that incorporate by reference qualifying state or local erosion and sediment control program requirements. A qualifying state or local erosion and sediment control program ~~is one that~~ includes the elements listed in Subsections 302.19.a. and b. and ~~any~~ additional requirements necessary to achieve the ~~applicable~~ technology-based standards of best available technology and best conventional technology based on the best professional judgment of the permit writer. (3-24-22)( )

### 303. CALCULATING PERMIT PROVISIONS.

01. **Outfalls and Discharge Points.** ~~All p~~Permit effluent limitations, standards and prohibitions ~~shall~~ will be established for each outfall or discharge point of the permitted facility, except as otherwise provided under Subsections 302.13, ~~(Best Management Practices,)~~ and ~~Subsection 303.08, (Internal Waste Streams.)~~ (3-24-22)( )

02. **Production-Based Limitations.** (3-24-22)( )

a. ~~In the case of~~For POTWs, permit effluent limitations, standards, or prohibitions ~~shall will~~ be calculated based on design flow. (3-24-22)( )

b. Except ~~in the case of~~ for POTWs or as provided in Subsection 303.02.b.ii., calculation of ~~any~~ permit limitations, standards, or prohibitions ~~which are~~ based on production (or other measure of operation) ~~shall will~~ be based upon a reasonable measure of actual production of the facility. (3-24-22)( )

i. For new sources or new dischargers, actual production ~~shall must~~ be estimated using projected production. The time period of the measure of production ~~shall must~~ correspond to the time period of the calculated permit ~~limitations; for example, limit (e.g.,~~ monthly production ~~shall be is~~ used to calculate average monthly discharge limitations. (3-24-22)( )

ii. The Department may include a condition establishing alternate permit limitations, standards, or prohibitions based upon anticipated increased (not to exceed maximum production capability) or decreased production levels. (3-24-22)( )

iii. For the automotive manufacturing industry only, the Department ~~shall~~ will establish an alternate condition under Subsection 303.02.b.ii., if the applicant satisfactorily demonstrates to the Department, at the time the during application is submitted submittal, that: (3-24-22)( )

(1) Its aActual production, as indicated in Subsections 303.02.b. and 303.02.b.i., is substantially below maximum production capability, and (3-24-22)( )

(2) There is a rReasonable potential exists for an increase above actual production during the duration of the permit. (3-24-22)( )

iv. If the Department establishes permit conditions under Subsection 303.02.b.ii.: ( )

(1) The permit ~~shall~~ will require the permittee to notify the Department at least two (2) business days prior to a before the month in which the permittee expects to operate at a level higher than the lowest production level identified in the permit. The notice ~~shall~~ must specify: (3-24-22)( )

(a) The aAnticipated level; and the period during which the permittee expects to operate at the alternate level; and (3-24-22)( )

(b) If the notice covers more than one (1) month, the notice shall specify the reasons for the anticipated production level increase; and (3-24-22)( )

(c) New notice of discharge at alternate levels is required to must cover a period or production level not covered by a prior notice or, if during two (2) consecutive months otherwise covered by a notice, the production level at the permitted facility does not in fact meet the higher level designated in the notice; (3-24-22)( )

(2) The permittee ~~shall~~ must comply with the limitations, standards, or prohibitions that correspond to the lowest level of production specified in the permit, unless the permittee has notified the Department under Subsection 303.02.b.ii., in which case the permittee ~~shall~~ must comply with the lower of the actual level of production during each month or the level specified in the notice; and (3-24-22)( )

(3) The permittee ~~shall~~ must submit, with the Discharge Monitoring Report, the level of production that actually occurred during each month and the limitations, standards, or prohibitions applicable to that level of production. (3-24-22)( )

**03. Metals.** All pPermit effluent limitations, standards, or prohibitions for a metal ~~shall~~ will be expressed in terms of total recoverable metal as defined in 40 CFR Part 136, unless: (3-24-22)( )

a. An applicable effluent standard or limitation has been promulgated under the ~~Clean Water Act~~ CWA and specifies the limitation for the metal in the dissolved or valent or total form; (3-24-22)( )

b. In establishing permit limitations on a case-by-case basis under 40 CFR 125.3, it is necessary to express specify the limitation on the metal in the dissolved or valent or total form to carry out the provisions of the ~~Clean Water Act~~ CWA; or (3-24-22)( )

c. All aApproved analytical methods for the metal inherently measure only its dissolved form (e.g., hexavalent chromium). (3-24-22)( )

**04. Continuous Discharges.** For continuous discharges, all permit effluent limitations, standards, and prohibitions, including those necessary to achieve water quality standards, ~~shall~~ will, unless impracticable, be stated as: (3-24-22)( )

a. Maximum daily and average monthly discharge limitations for all dischargers other than POTWs;

- or (3-24-22)( )
- b. Average weekly and average monthly discharge limitations for POTWs. (3-24-22)( )
- 05. Noncontinuous Discharges.** Discharges ~~which that~~ are not continuous, as defined in Section 010 (Definitions), ~~shall be particularly~~ will be described and limited, considering the following factors, as appropriate: (3-24-22)( )
- a. Frequency (~~for example e.g.,~~ a batch discharge ~~shall must~~ not occur more than once every three (3) weeks); (3-24-22)( )
- b. Total mass (~~for example e.g.,~~ not to exceed one hundred (100) kilograms of zinc and two hundred (200) kilograms of chromium per batch discharge); (3-24-22)( )
- c. Maximum rate of discharge of pollutants during the discharge (~~for example e.g.,~~ not to exceed two (2) kilograms of zinc per minute); and (3-24-22)( )
- d. Prohibition or limitation of specified pollutants by mass, concentration, or other appropriate measure (~~for example e.g., shall must~~ not contain at any time more than one-tenth (0.1) mg/L zinc or more than two hundred fifty (250) grams (one-fourth (1/4) kilogram) of zinc in ~~any~~ discharge). (3-24-22)( )
- 06. Mass Limitations.** (3-24-22)( )
- a. ~~All p~~ Pollutants limited in permits ~~shall will~~ have limitations, standards, or prohibitions expressed in terms of mass except: (3-24-22)( )
- i. pH, temperature, radiation, or other pollutants ~~which that~~ cannot ~~appropriately~~ be expressed by mass; (3-24-22)( )
- ii. When applicable standards and limitations are expressed in ~~terms of~~ other units of measurement; or (3-24-22)( )
- iii. If in establishing permit limitations on a case-by-case basis under 40 CFR 125.3, limitations expressed in ~~terms of~~ mass are infeasible because the mass of the pollutant discharged cannot be related to a measure of operation (~~for example e.g.,~~ discharges of TSS from certain mining operations), and permit conditions ensure ~~that~~ dilution will not be used as a substitute for treatment. (3-24-22)( )
- b. Pollutants limited ~~in terms of by~~ mass, may also be limited ~~in terms of by~~ other units of measurement, and the permit ~~shall~~ requires the permittee to comply with both limitations. (3-24-22)( )
- 07. Pollutant Credits for Intake Water.** ( )
- a. The following definitions apply to ~~the consideration of~~ intake credits in determining reasonable potential and establishing technology ~~-based~~ and water quality ~~-based~~ effluent limits for IPDES permits. (3-24-22)( )
- i. An intake pollutant is the amount of a pollutant ~~that is~~ present in waters of the United States (including ground water as provided in Subsection 303.07.a.iv.) at the time when water is removed from the same body of water by the discharger or other facility supplying the discharger with intake water. (3-24-22)( )
- ii. An To be eligible for intake credit, an intake pollutant must be from the same body of water as the discharge ~~in order to be eligible for an intake credit. An intake pollutant is considered to be from the same body of water as the discharge if, and~~ the Department finds ~~that~~ the intake pollutant would have reached the vicinity of the outfall point in the receiving water within a reasonable period ~~had if it had~~ not been removed by the permittee. This finding will be established if: (3-24-22)( )
- (1) The background concentration of the pollutant in the receiving water (excluding any amount of the

pollutant in the facility's discharge) is similar to ~~that in~~ the intake water; ( )

(2) ~~There is a~~ direct hydrological connection exists between the intake and discharge points; and (3-24-22)( )

(3) Water quality characteristics (e.g., temperature, pH, hardness) are similar in the intake and receiving waters. ( )

iii. The Department may ~~also~~ consider other site-specific factors relevant to the transport and fate of the pollutant to ~~make the finding~~ determine in a particular case that a pollutant would ~~or would not~~ have reached the vicinity of the outfall point in the receiving water within a reasonable period ~~had it if it had~~ not been removed by the permittee. (3-24-22)( )

iv. An intake pollutant from ground water may be considered ~~to be~~ from the same body of water if the Department determines ~~that~~ the pollutant would have reached the vicinity of the outfall point in the receiving water within a reasonable period ~~had it if it had~~ not been removed by the permittee, except that ~~such a~~ the pollutant is not from the same body of water if the ground water contains the pollutant partially or entirely due to human activity, such as industrial, commercial, or municipal operations, disposal actions, or treatment processes. (3-24-22)( )

v. The determinations made under Subsections 303.07.b. and c. will be made on a pollutant-by-pollutant and outfall-by-outfall basis. ( )

vi. These provisions do not alter the Department's obligation under Subsection 302.06.a.vii(2) to develop effluent limitations consistent with the assumptions and requirements of ~~any~~ available waste load allocations for the discharge, that is part of a TMDL prepared by the Department and approved by EPA ~~pursuant to~~ under 40 CFR 130.7, or prepared by EPA ~~pursuant to~~ under 40 CFR 130.7(d). (3-24-22)( )

**b.** Consideration of intake pollutants for technology-~~based~~ effluent limitations: ( )

i. Upon request of the discharger, technology-based effluent limitations or standards ~~shall~~ will be adjusted to reflect credit for pollutants in the discharger's intake water if the: (3-24-22)( )

(1) ~~The a~~ applicable effluent limitations and standards contained in 40 CFR Part 401 through 471, specifically provide that they ~~shall~~ will be applied on a net basis; or (3-24-22)( )

(2) ~~The d~~ Discharger demonstrates ~~that~~ the control system ~~it~~ proposes d or uses d to meet applicable technology-based limitations and standards would, if properly installed and operated, meet the limitations and standards in the absence of pollutants in the intake waters. (3-24-22)( )

ii. Credit for generic pollutants such as BOD or TSS ~~should~~ will not be granted unless the permittee demonstrates ~~that~~ the constituents of the generic measure in the effluent are substantially similar to the constituents of the generic measure in the intake water or ~~unless~~ appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere. (3-24-22)( )

iii. Credit ~~shall~~ will be granted only to the extent necessary to meet the applicable limitation or standard, up to a maximum value equal to the influent value. Additional monitoring may ~~be necessary to~~ determine eligibility for credits and compliance with permit limits. (3-24-22)( )

iv. Credit ~~shall~~ will be granted only if the discharger demonstrates ~~that~~ the intake water is drawn from the same body of water ~~into which~~ where the discharge is made. The Department may waive this requirement if the Department finds that no environmental degradation will result. (3-24-22)( )

v. This section does not apply to the discharge of raw water clarifier sludge generated from the treatment of intake water. ( )

**c.** Consideration of intake pollutants for water quality based effluent limitations: (3-24-22)( )

i. The Department will evaluate if ~~there is~~ reasonable potential exists for the discharge of an identified intake pollutant to cause or contribute to an exceedance of a narrative or numeric water quality criterion. If the Department determines ~~that~~ an intake pollutant in the discharge does not have the reasonable potential to cause or contribute to an exceedance of an applicable water quality standard, the Department is not required to include a water quality-based effluent limit for the identified intake pollutant in the facility's permit. (3-24-22)( )

ii. If a reasonable potential exists, then water quality-based effluent limits may be established that reflect a credit for intake pollutants where a discharger demonstrates that the following conditions are met: (3-24-22)( )

(1) The facility removes the intake water containing the pollutant from the same body of water into which where the discharge is made; (3-24-22)( )

(2) The ambient background concentration of the pollutant does not meet the most stringent applicable water quality criterion for that pollutant; (3-24-22)( )

(3) The facility does not alter the identified intake pollutant chemically or physically in a manner that would to cause adverse water quality impacts to occur that would not occur if the pollutants had not been removed from the body of water; (3-24-22)( )

(4) The timing and location of the discharge would does not cause adverse water quality impacts to occur that would not occur if the identified intake pollutant had not been removed from the body of water; and (3-24-22)( )

(5) For ~~the purpose of~~ determining water quality-based effluent limits, ~~the~~ facility does not increase the identified intake pollutant concentration at the point of discharge as compared to the pollutant concentration in the intake water. (3-24-22)( )

iii. Where the conditions in Subsection 303.07.c.i. and ii are met, the Department may establish a water quality-based effluent limitation allowing a facility to discharge a mass and concentration of the intake pollutant that are no greater than the mass and concentration found in the facility's intake water. A discharger may add mass of the pollutant to its waste stream if an equal or greater mass is removed prior to before discharge, so there is no net addition of the pollutant in the discharge compared to the intake water. (3-24-22)( )

iv. Where intake water for a facility is provided by a municipal water supply system and the supplier provides treatment of the raw water that removes an intake water pollutant, the concentration of the intake water pollutant will be determined at the point where the water enters the water supplier's distribution system. ( )

v. Where a facility discharges intake pollutants from multiple sources that originate from the receiving water body and from other water bodies, the Department may derive an effluent limit reflecting the flow-weighted amount of each source of the pollutant provided that if conditions in Subsection 303.07.c.ii. of this subsection are met and adequate monitoring to determine compliance can be established and is included in the permit. (3-24-22)( )

vi. The permit will specify how compliance with mass and concentration-based limitations for the intake water pollutant will be assessed. This assessment may be done by basing based on the effluent limitation on background concentration data. Alternatively, the Department may determine compliance by monitoring the pollutant concentrations in the intake water and in the effluent. This mMonitoring may be supplemented by monitoring internal waste streams or by a Department evaluation of the use of best management practices BMPs. (3-24-22)( )

vii. Effluent limitations must will be established to comply with all other applicable state and federal laws and regulations including technology-based requirements and anti-degradation policies. (3-24-22)( )

viii. When determining whether water quality based effluent limitations are necessary, information from chemical-specific, whole effluent toxicity WET and biological assessments will be considered independently. (3-24-22)( )

ix. Permit limits ~~must~~ will be consistent with the assumptions and requirement of waste load allocations or other provisions in a TMDL that has been approved by the EPA. (3-24-22)( )

**08. Internal Waste Streams.** ( )

a. When permit effluent ~~limitations~~ or standards imposed at the point of discharge are impractical or infeasible, effluent ~~limitations~~ or standards for discharges of pollutants may be imposed on internal waste streams before mixing with other waste streams or cooling water streams. In those instances, the monitoring required by Section 304 (~~Monitoring and Reporting Requirements~~) ~~shall~~ will also be applied to the internal waste streams. (3-24-22)( )

b. Limits on internal waste streams will be imposed only when the fact sheet ~~sets forth~~ states the exceptional circumstances ~~which that~~ make ~~such the~~ limitations necessary, such as: (3-24-22)( )

i. When the final discharge point is inaccessible (~~for example~~ e.g., under ten (10) meters of water); (3-24-22)( )

ii. ~~The w~~Wastes at the point of discharge are so diluted ~~as to~~ it makes monitoring impracticable; or (3-24-22)( )

iii. ~~The i~~Interferences among pollutants at the point of discharge ~~would~~ make detection or analysis impracticable. (3-24-22)( )

**09. Disposal of Pollutants into Wells, into POTWs, or by Land Application.** ( )

a. When part of a discharger's process wastewater is not ~~being~~ discharged into waters of the United States because it is disposed into a well, into a POTW, or by land application, ~~thereby~~ reducing the flow or level of pollutants ~~being~~ discharged into waters of the United States, applicable effluent standards and ~~limitations~~ for the discharge in an IPDES permit ~~shall~~ will be adjusted to reflect the reduced raw waste resulting from ~~such the~~ disposal. Effluent ~~limitations~~ and standards in the permit ~~shall be~~ are calculated by one (1) of the following methods: (3-24-22)( )

i. If none of the waste from a particular process is discharged into waters of the United States, and ~~effluent limitations guidelines~~ ELGs provide separate allocation for wastes from that process, ~~all~~ allocations for the process ~~shall be~~ are eliminated from calculation of permit effluent ~~limitations~~ or standards; or (3-24-22)( )

ii. In all cases other than those described in Subsection 303.09.a.i., effluent ~~limitations~~ shall be are adjusted by multiplying the effluent limitation derived by applying ~~effluent limitation guidelines~~ ELGs to the total waste stream by the amount of wastewater flow to be treated and discharged into waters of the United States, and dividing the result by the total wastewater flow. Effluent ~~limitations~~ and standards ~~so~~ calculated may be further adjusted under 40 CFR Part 125, subpart D, to make them more or less stringent if discharges to wells, POTWs, or by land application change the character or treatability of the pollutants ~~being~~ discharged to receiving waters. This method may be algebraically expressed as:

$$P=(E \times N)/T; \text{ where } P \text{ is the permit effluent limitation, } E \text{ is the limitation derived by applying effluent guidelines to the total waste stream, } N \text{ is the wastewater flow to be treated and discharged to waters of the United States, and } T \text{ is the total wastewater flow.}$$

(3-24-22)( )

ELGs: b. Subsection 303.09.a. does not apply to the extent that promulgated ~~effluent limitations guidelines~~ (3-24-22)( )

i. Control concentrations of pollutants discharged but not mass; or ( )

ii. Specify a different specific technique for adjusting effluent ~~limitations~~ to account for well injection,



land application, or disposal into POTWs. (3-24-22)( )

c. Subsection 303.09.a. does not alter a discharger's obligation to meet ~~any~~ more stringent requirements established under Sections 300 (Conditions Applicable to all Permits), 301 (Permit Conditions for Specific Categories), 40 CFR 122.42(e), and 302 (Establishing Permit Provisions). (3-24-22)( )

d. Disposal of discharge into injection wells is regulated by: ( )

i. Idaho Department of Water Resources, in compliance with the IDAPA 37.03.03, "Rules and Minimum Standards for the Construction and Use of Injection Wells," ~~for a Class I injection well~~; or (3-24-22)( )

ii. Health District ~~having with~~ jurisdiction, in compliance with IDAPA 58.01.03, "Individual/ Subsurface Sewage Disposal Rules," for a Class V injection well. (3-24-22)( )

e. Disposal of discharge onto the surface of the land is regulated by the Department under IDAPA 58.01.17, "Recycled Water Rules." ( )

### 304. MONITORING AND REPORTING REQUIREMENTS.

01. **Monitoring Requirements.** A permit ~~must will~~ include ~~the following requirements for monitoring~~: (3-24-22)( )

a. Requirements ~~concerning for~~ the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods (including biological monitoring methods when appropriate); (3-24-22)( )

b. ~~The t~~Type, intervals, and frequency of monitoring sufficient to yield data ~~which are that~~ representative of the monitored activity including, when appropriate, continuous monitoring; (3-24-22)( )

c. Provisions for reporting the results of monitoring, including frequency, appropriate for the regulated activity based on the impact of that activity and as specified in 40 CFR Part 127 (NPDES Electronic Reporting). Reporting ~~shall must~~ be no less frequent than specified in 40 CFR 122.44; (3-24-22)( )

d. ~~The m~~Mass (or other measurement specified in the permit) for each pollutant limited in the permit; (3-24-22)( )

e. ~~The v~~Volume of effluent discharged from each outfall; (3-24-22)( )

f. Other measurements as appropriate, including: ( )

i. Pollutants in internal waste streams under Subsection 303.08; ( )

ii. Pollutants in intake water for net limitations under Subsection 303.07; (3-24-22)( )

iii. Frequency, rate of discharge, etc., for non-continuous discharges under Subsection 303.05; ( )

iv. Pollutants subject to notification requirements under Subsection 301.01; and ( )

v. Pollutants in sewage sludge or other monitoring as specified in 40 CFR Part 503; or as determined to be necessary on a case-by-case basis ~~pursuant to the Clean Water Act section under CWA Section~~ 405(d)(4), Section 380 (Sewage Sludge) of these rules, and IDAPA 58.01.16.650, "Wastewater Rules"; (3-24-22)( )

g. According to sufficiently sensitive test procedures (i.e., methods) approved under 40 CFR Part 136 for the analysis of pollutants or pollutant parameters, or another method required under 40 CFR Parts 401 through 471 or Part 501 through 503. Consistent with 40 CFR Part 136, applicants or permittees ~~have the option of providing~~ may provide matrix- or sample-specific minimum levels rather than the published levels. ~~Further, where~~ When an

applicant or permittee can demonstrate that, despite a good faith effort to use a method that ~~would~~ otherwise meet the definition of “sufficiently sensitive,” the analytical results are not consistent with the QA/QC specifications for ~~that~~ the method, then the Department may determine ~~that~~ the method is not performing adequately and the Department ~~should~~ will select a different method from the remaining EPA-approved methods that is sufficiently sensitive consistent with provisions outlined in Subsections 304.01.g.i. and ii. ~~For the purposes of this section, a method is “sufficiently sensitive” when:~~ (3-24-22)( )

i. The method minimum level (ML) is at or below the level of the effluent limit established in the permit for the measured pollutant or pollutant parameter; or ( )

ii. The method has the lowest ML of the analytical methods approved under 40 CFR Part 136 or required under 40 CFR Chapter I, Subchapter N or O, for the measured pollutant or pollutant parameter; and ( )

~~h.~~ ~~In the case of~~ For pollutants or pollutant parameters ~~for which there are~~ which have no approved methods under 40 CFR Part 136, or methods are not otherwise required under 40 CFR Part 401 through 471 or Part 501 through 503, monitoring ~~shall~~ must be conducted according to a test procedure specified in the permit for ~~such~~ the pollutants or pollutant parameters. (3-24-22)( )

**02. Reporting Monitoring Results.** ( )

a. Except as provided in Subsections 304.02.d. and 304.02.e., the Department will establish requirements to report monitoring results on a case-by-case basis with a frequency dependent on the nature and effect of the discharge, but ~~in no case less than~~ at least once a year. ~~All~~ RResults must be electronically reported in compliance with 40 CFR Part 127. (3-24-22)( )

b. For sewage sludge use or disposal practices, the Department will establish requirements to monitor and report results on a case-by-case basis with a frequency dependent on the nature and effect of the sewage sludge use or disposal practice; minimally ~~this shall be~~ as specified in 40 CFR Part 503, Section 380 (~~Sewage Sludge~~) of these rules, and Idaho’s Wastewater Rules, IDAPA 58.01.16.650, “Wastewater Rules,” (where applicable), but ~~in no case less than~~ at least once a year. ~~All~~ RResults must be electronically reported in compliance with 40 CFR Part 127. (3-24-22)( )

c. The Department will establish requirements to report monitoring results for storm water discharges associated with industrial activity ~~which are~~ subject to an ~~effluent limitation guideline~~ ELG on a case-by-case basis with a frequency dependent on the nature and effect of the discharge, but ~~in no case less than~~ at least once a year. (3-24-22)( )

d. The Department will establish requirements to report monitoring results for storm water discharges associated with industrial activity, other than those addressed in Subsection 304.02.c., on a case-by-case basis with a frequency dependent on the nature and effect of the discharge. At a minimum, a permit for ~~such~~ a discharge ~~must~~ will require the discharger to: (3-24-22)( )

i. Conduct an annual inspection of the facility site to identify areas contributing to a storm water discharge associated with industrial activity; ( )

ii. Evaluate whether measures to reduce pollutant loadings identified in a storm water pollution prevention plan are adequate and properly implemented ~~in accordance with~~ following the terms of the permit or whether additional control measures are needed; (3-24-22)( )

iii. Maintain for a period of three (3) years a record summarizing the results of the inspection and a certification that the facility is ~~in compliance~~ complying with the plan and the permit, and identifying ~~any~~ incidents of noncompliance; (3-24-22)( )

iv. Sign the report and certification in accordance with Section 090 (~~Signature Requirements~~); and (3-24-22)( )

v. ~~Permits~~ For storm water discharges associated with industrial activity from inactive mining operations ~~may~~, where annual inspections are impracticable, ~~may~~ require certification that the facility is ~~in compliance~~ ~~with~~ the permit, or alternative requirements, once every three (3) years by an Idaho licensed professional engineer. (3-24-22)( )

e. A permit that does not require monitoring results reports at least annually must require the permittee to report, at least annually, all instances of noncompliance not reported under Subsection 300.12. ( )

### 305. COMPLIANCE SCHEDULES.

01. **General.** An IPDES permit may, when appropriate, specify a schedule ~~of compliance~~ leading to compliance with the ~~Clean Water Act~~ CWA and these rules. (3-24-22)( )

a. Any Compliance schedules ~~of compliance under this section shall~~ require compliance as soon as possible. (3-24-22)( )

b. The first IPDES permit issued to a new source or a new discharger ~~shall will~~ contain a compliance schedule ~~of compliance~~ only when necessary to allow a reasonable opportunity to attain compliance with requirements issued or revised after ~~commencement of construction~~ construction commences, but less than three (3) years before ~~commencement of the relevant~~ discharge commences. (3-24-22)( )

c. For recommending dischargers, a compliance schedule ~~of compliance shall will~~ be available only when necessary to allow a reasonable opportunity to ~~attain compliance~~ comply with requirements issued or revised less than three (3) years before ~~recommencement of~~ discharge recommences. (3-24-22)( )

d. If a permit establishes a compliance schedule ~~of compliance under this section~~ that exceeds one (1) year from the date of permit issuance, the schedule ~~must set out will state~~ interim requirements and dates for ~~achievement of~~ achieving the interim requirements. If the schedule includes interim requirements: (3-24-22)( )

i. The time between interim dates ~~shall will~~ not exceed one (1) year, except ~~that in the case of a~~ schedule for a compliance schedule with standards for sewage sludge use and disposal, the time between interim dates ~~shall will~~ not exceed six (6) months; or (3-24-22)( )

ii. If the time ~~necessary for completion of any to complete~~ interim requirements ~~(such as the e.g.,~~ construction of a control facility) is more than one (1) year and is not readily divisible into stages for completion, the permit ~~shall will~~ specify interim dates for ~~the submission of~~ submitting reports of progress toward ~~completion of~~ completing the interim requirements and indicate a projected completion date. (3-24-22)( )

e. Within fourteen (14) days following each interim and final date of compliance, the permittee ~~shall~~ must notify the Department in writing of its compliance or noncompliance with the interim or final requirements, or submit progress reports if Subsection 305.01.d.ii. ~~is applicable~~ applies. (3-24-22)( )

f. Permits may incorporate compliance schedules ~~which~~ allowing a discharger to phase in, over time, compliance with water quality-based effluent limitations in accordance with IDAPA 58.01.02.400, "Water Quality Standards." (3-24-22)( )

02. **Alternative Compliance Schedules** ~~of Compliance~~. An IPDES permit applicant or permittee may cease conducting regulated activities (by terminating direct discharge for point sources) rather than continuing to operate and meet permit requirements as follows: (3-24-22)( )

a. If the permittee decides to cease conducting regulated activities at a given time within the term of a permit ~~which that~~ has already been issued: (3-24-22)( )

i. The permit may be modified to contain a new or additional schedule leading to timely cessation of activities; or ( )

ii. The permittee ~~shall~~ **must** cease conducting permitted activities before noncompliance with any interim or final compliance schedule requirement already specified in the permit. (3-24-22)( )

b. If the decision to cease conducting regulated activities is made before ~~issuance of~~ **issuing** a permit ~~whose term will include the~~ **with a** termination date, the permit ~~shall~~ **will** contain a schedule leading to termination ~~which that~~ **will** ensure timely compliance with ~~applicable~~ requirements no later than the statutory deadline. (3-24-22)( )

c. If the permittee is undecided whether to cease conducting regulated activities, the Department may issue or modify a permit to contain two (2) schedules, as follows: ( )

i. Both schedules ~~shall~~ **will** contain an identical interim deadline requiring a final decision on whether to cease conducting regulated activities no later than a date ~~which that~~ ensures sufficient time to comply with ~~applicable~~ requirements in a timely manner if the decision is to continue conducting regulated activities; (3-24-22)( )

ii. ~~One (1) The first~~ schedule ~~shall~~ **will** lead to timely compliance with applicable requirements, no later than the statutory deadline; (3-24-22)( )

iii. The second schedule ~~shall lead to cessation of~~ **will cease** regulated activities by a date ~~which that~~ will ensure timely compliance with ~~applicable~~ requirements no later than the statutory deadline; and (3-24-22)( )

iv. Each permit containing two (2) schedules shall include a requirement that after the permittee has made a final decision under Subsection 305.02.c., it shall follow the schedule leading to compliance if the decision is to continue conducting regulated activities, and follow the schedule leading to termination if the decision is to cease conducting regulated activities. (3-24-22)( )

d. The applicant's or permittee's decision to cease conducting regulated activities shall be evidenced by a firm public commitment satisfactory to the Department, such as a resolution of the board of directors of a corporation. (3-24-22)( )

**306. -- 309. (RESERVED)**

**310. VARIANCES.**

**01. Variance Requests by non-POTWs. ( )**

a. A discharger ~~which that~~ is not a POTW may request a variance from otherwise applicable effluent limitations under the following statutory or regulatory provisions, within the times specified ~~in this subsection.~~ (3-24-22)( )

i. ~~A request for a variance based on t~~The presence of fundamentally different factors from ~~those on~~ which the ~~effluent limitations guideline~~ **ELG** was based must be filed as follows: (3-24-22)( )

(1) For a request from best practicable control technology currently available (BPT), by the close of the public comment period under Section 109 ~~(Public Notification and Comment)~~; or (3-24-22)( )

(2) For a request from best available technology economically achievable (BAT) and/or best conventional pollutant control technology (BCT), by no later than one hundred eighty (180) days after the date on which an ~~effluent limitation guideline~~ **ELG** is published in the Federal Register for a request based on an ~~effluent limitation guideline~~ **ELG** promulgated on or after February 4, 1987. (3-24-22)( )

ii. The request must explain how the ~~requirements of the applicable~~ regulatory and/or statutory criteria have been met. (3-24-22)( )

b. An applicant may request ~~a variance~~ for non-conventional pollutants under this section ~~for the~~

following: (3-24-22)( )

i. A variance from the BAT requirements for ~~Clean Water Act section~~ CWA Section 301(b)(2)(F) pollutants (~~commonly called~~ i.e., non-conventional pollutants) ~~pursuant to the Clean Water Act section~~ under CWA Section 301(c) because of the economic capability of the owner or operator; or (3-24-22)( )

ii. A variance ~~pursuant to the Clean Water Act section~~ under CWA Section 301(g) provided: (3-24-22)( )

(1) The variance may only be requested for ammonia; chlorine; color; iron; total phenols (4AAP), when determined by the EPA Administrator to be a pollutant covered by ~~the Clean Water Act section~~ CWA Section 301(b)(2)(F); and (3-24-22)( )

(2) ~~Any o~~Other pollutants ~~which~~ the EPA Administrator lists under ~~the Clean Water Act section~~ CWA Section 301(g)(4). (3-24-22)( )

c. The request for variance as outlined in Subsection 310.01.b. must be made as follows: ( )

i. For ~~those requests for a variance from an~~ effluent limitations based ~~upon an~~ effluent limitation guideline ELG, by submitting an initial request to the Department no later than two hundred seventy (270) days after promulgation of the applicable ~~effluent limitation guideline~~ ELG followed by a completed request no later than the close of the public comment period under Section 109 (~~Public Notification and Comment~~). (3-24-22)( )

(1) The initial request to the Department must contain: ( )

(a) ~~The n~~Name of the discharger; (3-24-22)( )

(b) ~~The p~~Permit number; (3-24-22)( )

(c) ~~The o~~Outfall number(s); (3-24-22)( )

(d) ~~The a~~Applicable ~~effluent guideline~~ ELG; and (3-24-22)( )

(e) Whether the discharger is requesting a ~~Clean Water Act section~~ CWA Section 301(c) or ~~section~~ 301(g) modification or both. (3-24-22)( )

(2) The completed request must demonstrate ~~that~~ the applicable requirements of 40 CFR Part 125 have been met. ~~Notwithstanding this provision, t~~ The complete application for a request under ~~Clean Water Act section~~ CWA Section 301(g) must be filed one hundred eighty (180) days before the Department ~~must~~ makes a decision (unless the Department establishes a shorter or longer period). (3-24-22)( )

ii. For ~~those requests for a variance from~~ effluent limitations not based on ~~effluent limitation guidelines~~ ELGs, the request need only comply with Subsection 310.01.c.i(2) and need not be preceded by an initial request under Subsection 310.01.c.i(1). (3-24-22)( )

d. A modification under ~~the Clean Water Act section~~ CWA Section 302(b)(2) of requirements under the ~~Clean Water Act section~~ CWA Section 302(a) for achieving water quality related effluent limitations may be requested ~~no later than before~~ the close of the public comment period under Section 109 (~~Public Notification and Comment~~) on the permit from which the modification is sought. (3-24-22)( )

e. A variance under ~~the Clean Water Act section~~ CWA Section 316(a) for the thermal component of ~~any~~ discharge must be filed with a timely application for a permit under Section 105 (~~Application for an Individual IPDES Permit~~) of these rules, except that if thermal effluent limitations are established under ~~the Clean Water Act section~~ CWA Section 402(a)(1) or are based on water quality standards, the request for a variance may be filed by the close of the public comment period under Section 109 (~~Public Notification and Comment~~). (3-24-22)( )

02. Variance Requests by POTWs. ~~A discharger which is a POTW may request a variance from water~~

~~quality-based effluent limitations. A modification under the Clean Water Act section 302(b)(2) of the requirements under the Clean Water Act section 302(a) for achieving water quality based effluent limitations shall be requested no later than the close of the public comment period under Section 109 (Public Notification and Comment) on the permit from which the modification is sought. A discharger that is a POTW may request a variance, under CWA Section 302(b)(2), from the water quality-based effluent limits found at CWA Section 302(a). The variance must be requested before the close of the public comment period under Section 109~~ (3-24-22)( )

**03. Permit Variance Decision Process.** ( )

a. The Department may deny requests for variances. A variance that has been denied by the Department may be appealed according to the process identified in Section 204 ~~(Appeals Process)~~. (3-24-22)( )

b. The Department may grant variances (subject to EPA objection under Subsection 103.02 or 40 CFR 123.44): (3-24-22)( )

i. ~~Variances f~~For extensions under ~~the Clean Water Act section~~ CWA Section 301(i) based on delay in completion of completing a POTW; (3-24-22)( )

ii. ~~Variances a~~After consultation with EPA, extensions under ~~the Clean Water Act section~~ CWA Section 301(k) based on the use of innovative technology; (3-24-22)( )

iii. ~~Variances u~~Under ~~the Clean Water Act section~~ CWA Section 316(a) for thermal pollution; or (3-24-22)( )

iv. ~~Variances f~~From water quality standards under IDAPA 58.01.02.260, ~~“Water Quality Rules.”~~; (3-24-22)( )

c. The Department may forward to EPA with or without a recommendation, a variance based on: (3-24-22)( )

i. ~~A variance based on the e~~Economic capability of the applicant under ~~the Clean Water Act section~~ CWA Section 301(c); or (3-24-22)( )

ii. ~~A variance based on w~~Water quality-related effluent limitations under ~~the Clean Water Act section~~ CWA Section 302(b)(2). (3-24-22)( )

d. The Department may forward to EPA with a written concurrence, a variance based on: (3-24-22)( )

i. ~~A variance based on the p~~Presence of fundamentally different factors from ~~those on which an effluent limitations guideline~~ the ELG was based (~~Clean Water Act section~~ CWA Section 301(n)); or (3-24-22)( )

ii. ~~A variance based upon e~~Certain water quality factors under ~~the Clean Water Act section~~ CWA Section 301(g). (3-24-22)( )

e. The EPA may grant or deny a request for a variance that is forwarded by the Department. If the EPA Administrator (or ~~his~~ delegate) approves the variance, the Department ~~shall will~~ prepare a draft permit incorporating the variance. (3-24-22)( )

f. ~~Any~~ public notice of a draft permit for which a variance or modification has been approved or denied ~~shall will~~ identify the ~~applicable~~ procedures for appealing that decision under Section 204 ~~(Appeals Process)~~. (3-24-22)( )

**04. Expedited Variance Procedures and Time Extensions.** ( )

a. ~~Notwithstanding~~Considering the time requirements in Subsections 310.01 and 310.02, the

Department may notify a permit applicant before a draft permit is issued under Section 108 (~~Draft Permit and Fact Sheet~~) that the draft permit will ~~likely~~ contain limitations ~~which are~~ eligible for variances. (3-24-22)( )

i. In the notice, the Department may require the applicant, as a condition of ~~consideration of any a~~ potential variance request, to ~~submit a request~~ explaining how the requirements of 40 CFR Part 125, ~~applicable apply~~ to the variance, have been met, and may require ~~its submission~~ submitting an explanation within a specified ~~reasonable~~ time after receipt of the notice. (3-24-22)( )

ii. The Department may send the notice before the permit application ~~has been is~~ submitted. The draft or final permit may contain the alternative limitations ~~which that~~ may become effective upon final grant of the variance. (3-24-22)( )

**b.** A discharger who cannot file a timely complete request required under Subsections 310.01.c.i.(2) or 310.01.c.ii. may request an extension ~~that~~: (3-24-22)( )

i. ~~The extension m~~May be granted or denied at the discretion of the Department. (3-24-22)( )

ii. ~~The extension shall be~~Is no more than six (6) months in duration. (3-24-22)( )

**05. Special Procedures for Decisions on Thermal Variances. ( )**

**a.** ~~The only issues connected with issuance of a particular permit on which the Department will make a final decision before the final permit is issued, are~~ If the Department makes a final decision on a thermal variance before a final permit is issued it will only consider whether alternative effluent limitations ~~would be are~~ justified under ~~the Clean Water Act section~~ CWA Section 316(a) or whether cooling water intake structures will use the best available technology under ~~section~~ CWA Section 316(b). (3-24-22)( )

i. Permit applicants who wish an early decision on these issues ~~should make a request to~~ may request that the Department, ~~furnished with~~ provide supporting reasons ~~at the time when~~ their permit applications are filed. (3-24-22)( )

ii. The Department will ~~then~~ decide whether ~~or not~~ to make an early decision. If ~~it is~~ granted, ~~both~~ the early decision on ~~Clean Water Act section~~ CWA Section 316 (a) or (b) issues and the grant of the balance of the permit ~~shall will~~ be: (3-24-22)( )

(1) Considered permit issuance under these regulations, and ( )

(2) Subject to the same requirements of public notice and comment and the same opportunity for an appeal. ( )

**b.** If the Department, on review of the administrative record, determines that the information necessary to decide whether ~~or not the Clean Water Act section~~ the CWA Section 316(a) issue is not likely to be available in time for a decision on permit issuance, the Department may issue a permit for a term up to five (5) years. (3-24-22)( )

i. The permit ~~shall will~~ require achievement of the effluent limitations initially proposed for the thermal component of the discharge, no later than the date otherwise required by law. (3-24-22)( )

ii. ~~However, t~~The permit ~~shall will~~ also afford the permittee an opportunity to file a demonstration under ~~Clean Water Act section~~ CWA Section 316(a), after conducting ~~such~~ studies ~~as are~~ required under 40 CFR 125.70 through 125.73. (3-24-22)( )

iii. A new discharger may not exceed the thermal effluent limitation ~~which is~~ initially proposed unless and until ~~its Clean Water Act section~~ the CWA Section 316(a) variance request is ~~finally~~ approved. (3-24-22)( )

**c.** ~~Any~~ proceeding held under Subsection 310.05.a. ~~shall will~~ be: (3-24-22)( )

- i. Publicly noticed as required by Section 109 (~~Public Notification and Comment~~), and (3-24-22)( )
- ii. Conducted at a time allowing the permittee to take ~~necessary~~ measures to meet the final compliance date ~~in the event~~ if its request for modification of thermal limits is denied. (3-24-22)( )
- d. Whenever the Department defers the decision under ~~the Clean Water Act section~~ CWA Section 316(a), ~~any~~ decision under ~~the Clean Water Act section~~ CWA Section 316(b) may be deferred. (3-24-22)( )

311. -- 369. (RESERVED)

370. PRETREATMENT STANDARDS.

**01. Purpose and Applicability.** This section and 40 CFR Part 403.1 through 40 CFR 403.3, and 40 CFR 403.5 through 40 CFR 403.18 apply to: (3-24-22)( )

a. Pollutants from non-domestic sources covered by Pretreatment Standards ~~which that~~ are indirectly discharged into or transported by truck, ~~or~~ rail, or otherwise introduced into POTWs as defined in Subsection 370.04 and 40 CFR 403.3; (3-24-22)( )

b. POTWs ~~which that~~ receive wastewater from sources subject to National Pretreatment Standards; and (3-24-22)( )

c. ~~Any~~ new or existing source subject to Pretreatment Standards. National Pretreatment Standards do not apply to sources ~~which discharge~~ discharging to a sewer ~~which that~~ is not connected to a POTW ~~Treatment Plant~~. (3-24-22)( )

**02. Objectives of General Pretreatment Regulations.** This section and 40 CFR Part 403 fulfill three (3) objectives: ( )

a. To prevent the introduction of pollutants into POTWs ~~which that~~ will interfere with ~~the operation of~~ operating a POTW, including interference with its use or disposal of municipal sludge; (3-24-22)( )

b. To prevent the introduction of pollutants into POTWs ~~which that~~ will pass through the treatment works or otherwise be incompatible with ~~such the~~ works; and (3-24-22)( )

c. To improve opportunities to recycle and reclaim municipal and industrial wastewaters and sludges. ( )

**03. Department Program in Lieu of a POTW Program.** 40 CFR 403.8(a) requires certain POTWs develop a pretreatment program. The Department may, ~~however on a case-by-case basis~~, assume responsibility for implementing the POTW pretreatment program requirements ~~set forth~~ in 40 CFR 403.8(f) in lieu of requiring the POTW to develop a pretreatment program. This does not preclude POTWs from independently developing pretreatment programs. (3-24-22)( )

**04. Term Interpretation.** When used in the context of 40 CFR Part 403, unless the context in which a term is used clearly requires a different meaning, terms 40 CFR Part 403 that are incorporated by reference in these rules have the following meanings: (3-24-22)

a. ~~The terms Administrator or Regional Administrator mean the EPA Region 10 Administrator;~~ (3-24-22)

b. ~~The term Approval Authority means the Department of Environmental Quality;~~ (3-24-22)

c. ~~The term Approved POTW Pretreatment Program or Program or POTW Pretreatment Program means a program administered by a POTW that meets the criteria established in 40 CFR 403.8 and 403.9, and which has been approved by the Department in accordance with 40 CFR 403.1;~~ (3-24-22)



~~d.~~ The term ~~Control Authority~~ means the POTW for a facility with a Department approved pretreatment program and the Department for a POTW without a Department approved pretreatment program; (3-24-22)

~~e.~~ The term ~~Director~~ means the Department of Environmental Quality with an NPDES permit program approved pursuant to the Clean Water Act section 402(b); (3-24-22)

~~f.~~ The terms ~~National Pretreatment Standard, Pretreatment Standard, or Standard~~ mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307 (b) and (c) of the Act, which applies to Industrial Users. This term includes prohibitive discharge limits established pursuant to 40 CFR 403.5; and (3-24-22)

~~g.~~ The term ~~Water Management Division Director~~ means a Director of the Water Management Division within the Region 10 office of the Environmental Protection Agency or this person's delegated representative. (3-24-22)

~~05. Exceptions to Incorporation by Reference.~~ The following sections of 40 CFR Part 403 are excluded from the incorporation by reference in Section 003 (Incorporation by Reference) of these rules. (3-24-22)

~~a.~~ 40 CFR 403.4 (State or Local Law). (3-24-22)

~~b.~~ 40 CFR 403.19 (Provisions of Specific Applicability to the Owatonna Wastewater Treatment Facility). (3-24-22)

~~e.~~ 40 CFR 403.20 (Pretreatment Program Reinvention Pilot Projects Under Project XL). (3-24-22)

371. -- 379. (RESERVED)

**380. SEWAGE SLUDGE.**

**01. Purpose.** ~~The purpose of t~~This section and 40 CFR Part 503 ~~is to:~~ (3-24-22)( )

**a.** Establish standards, ~~which~~ ~~consisting~~ of general requirements, pollutant limits, management practices, and operational standards, for the final use or disposal of sewage sludge, ~~and include:~~ (3-24-22)( )

~~i.~~ ~~Include s~~Standards for sewage sludge applied to the land, placed on a surface disposal site, or fired in a sewage sludge incinerator.; (3-24-22)( )

~~ii.~~ ~~Include:~~ (3-24-22)

~~(+)ii.~~ Pathogen and alternative vector attraction reduction requirements for sewage sludge applied to the land or placed on a surface disposal site; and ( )

~~(-)iii.~~ On a case-by-case basis, controls for storm water runoff from lands where sewage sludge or septage has been placed for treatment or disposal. ( )

**b.** Include the frequency of monitoring and recordkeeping requirements when sewage sludge is: ( )

**i.** Applied to the land; ( )

**ii.** Placed on a surface disposal site; or ( )

**iii.** Fired in a sewage sludge incinerator; and ( )

**c.** Include reporting requirements for: ( )

- i. Class I sludge management facilities; ( )
  - ii. POTWs with a design flow rate equal to or greater than one million gallons per day (1 MGD); and ( )
  - iii. POTWs that serve ten thousand (10,000) people or more. ( )
- 02. Applicability.** This section and 40 CFR Part 503 applies to: (3-24-22)( )
- a. Any person, who prepares sewage sludge, applies sewage sludge to the land, or fires sewage sludge in a sewage sludge incinerator and to the owner or operator of a surface disposal site; (3-24-22)( )
  - b. Sewage sludge applied to the land, placed on a surface disposal site, or fired in a sewage sludge incinerator; ( )
  - c. The eExit gas from a sewage sludge incinerator stack; or (3-24-22)( )
  - d. Land where sewage sludge is applied, to a surface disposal site, and to a sewage sludge incinerator. ( )
- ~~**03. Term Interpretation.** When used in the context of 40 CFR Part 503, unless the context in which a term is used clearly requires a different meaning, terms in the 40 CFR Part 503 that are incorporated by reference in these rules have the following meanings: (3-24-22)~~
- ~~a. The terms Administrator or Regional Administrator mean the EPA Region 10 Administrator; (3-24-22)~~
  - ~~b. The terms Director or State Program Director mean the Department of Environmental Quality as the agency designated by the Governor as having the lead responsibility for managing or coordinating the approved IPDES program; and (3-24-22)~~
  - ~~e. The term permitting authority is the Department of Environmental Quality. (3-24-22)~~
- 043. Exceptions to Incorporation by Reference.** 40 CFR 503.1 (Purpose and Applicability) is excluded from the incorporation by reference found in Section 003-(Incorporation by Reference) of these rules. (3-24-22)( )

381. -- 399. (RESERVED)

**400. COMPLIANCE EVALUATION.**

- 01. Non-Compliance Actions.** When the a permittee is or was not in compliance with any conditions of the existing, terminated, or expired permit that has been administratively continued, the Department may choose to do one (1) or more of the following: (3-24-22)( )
- a. Initiate an enforcement action; ( )
  - b. Issue a notice of intent to deny the new application. If the application is denied and the expired permit is no longer effective as provided in Subsection 101.02, the owner or operator must cease the activities authorized by the permit or be subject to enforcement action for operating without a permit; ( )
  - c. Issue a new permit with appropriate conditions; or ( )
  - d. Take other actions authorized by state law. ( )

401. -- 499. (RESERVED)

500. ENFORCEMENT.

01. **General Enforcement and Penalties.** Any person who violates ~~any~~ permit conditions, filing or reporting requirements, duty to allow or carry out inspections, entry or monitoring requirements, or ~~any~~ other provisions in these rules ~~shall be~~ is subject to administrative, civil, or criminal enforcement and those remedies authorized in the Environmental Protection and Health Act, Sections 39-101 et seq., Idaho Code, including without limitation, civil and criminal penalties as provided in Sections 39-108 and 39-117, Idaho Code. (3-24-22)( )

02. **Truth in Reporting.** It is a violation of these rules for any person to falsify, tamper with, or knowingly render inaccurate any monitoring device or method required to be maintained under an IPDES permit. In addition to ~~any~~ other remedies available to the Department, ~~such~~ a violation is punishable by a fine as provided in Section 39-117, Idaho Code. (3-24-22)( )

03. **False Statements.** It is a violation of these rules for any person to knowingly make any false statement, representation, or certification in any record or other document submitted or required to be maintained under an IPDES permit, including monitoring reports or reports of compliance or non-compliance. In addition to ~~any~~ other remedies available to the Department, ~~such~~ a violation is punishable by a fine as provided in Section 39-117, Idaho Code. (3-24-22)( )

04. **Public Participation in Enforcement.** The Department ~~shall~~ will provide for public participation in the state enforcement process by: (3-24-22)( )

- a. Investigating and providing written responses to citizen complaints; ( )
- b. Not opposing intervention by any citizen when permissive intervention may be authorized by statute, rule, or regulation; and (3-24-22)( )
- c. Publishing notice of and providing at least thirty (30) days for public comment on any proposed settlement of a state enforcement action. (3-24-22)( )

501. -- 599. (RESERVED)

600. ADMINISTRATIVE RECORDS AND DATA MANAGEMENT.

01. **Administrative Record for Draft Permits.** (3-24-22)

~~a.~~ The provisions of a draft permit prepared by the Department under Subsection 108.01 ~~shall be~~ are based on the administrative record defined in this section. (3-24-22)( )

~~ba.~~ For ~~preparing~~ a draft permit, the record ~~shall~~ consist of: (3-24-22)( )

i. ~~The a~~ Application, if required, and any supporting data furnished by the applicant; (3-24-22)( )

ii. ~~The d~~ Draft permit or notice of intent to deny the application or to terminate the permit; (3-24-22)( )

iii. ~~The f~~ Fact sheet; (3-24-22)( )

iv. All documents cited in the fact sheet; and (3-24-22)( )

v. ~~Other d~~ Documents contained in the supporting file for the draft permit. (3-24-22)( )

~~eb.~~ Material readily available at the Department or published material ~~that is~~ generally available, and ~~that is~~ included in the administrative record under Subsection 600.01, need not be physically included with the rest of the record ~~as long as it is~~ if specifically referred to in the fact sheet. (3-24-22)( )

~~dc.~~ ~~This subsection a~~ Applies to ~~all~~ draft permits when public notice was given after the effective date of these rules. (3-24-22)( )

**02. Administrative Record for Final Permits.** (3-24-22)

~~a.~~ The Department ~~shall~~ will base final permit decisions on the administrative record ~~defined in this section.~~ (3-24-22)( )

~~ba.~~ The administrative record for any final permit, including issuance, denial, transfer, modification, revocation and reissuance, or termination, ~~shall~~ will consist of the administrative record for the draft permit and fact sheet, as defined in Subsection 600.01, the proposed permit and associated information, and ~~the following:~~ (3-24-22)( )

i. ~~All e~~ Comments received during the public comment period provided under Section 109 ~~(Public Notification and Comment);~~ (3-24-22)( )

ii. ~~The r~~ Record of, and ~~any~~ written materials submitted as part of, ~~any~~ meeting(s) held under Section 109 ~~(Public Notification and Comment);~~ (3-24-22)( )

iii. ~~The a~~ Application or notice of intent to obtain coverage under a general permit, notice of intent to deny the application, or to terminate the permit, and ~~any~~ supporting data furnished by the applicant; (3-24-22)( )

iv. ~~The r~~ Response to comments required by Subsections 109.02 and 109.03 and ~~any~~ new material placed in the record under that section; and (3-24-22)( )

v. ~~Any other r~~ Relevant correspondence and documents. (3-24-22)( )

~~eb.~~ The final permit and fact sheet ~~shall~~ become part of the administrative record after the final permit is issued. (3-24-22)( )

~~dc.~~ The additional documents identified under Subsection 600.02.b., 107.03, and 109.02 ~~should~~ will be added to the record as soon as possible after their receipt or publication by the Department. The record ~~shall be~~ is complete on the date the final permit is issued. (3-24-22)( )

~~ed.~~ This subsection applies to all IPDES permits when the draft permit was included in a public notice. ( )

~~fe.~~ Material readily available from the Department or published materials ~~which that~~ are generally available and ~~which are~~ included in the administrative record under Subsection 600.02 or Section 109 ~~(Public Notification and Comment)~~, need not be physically included in the same file as the rest of the record ~~as long as if~~ it is specifically referred to in the fact sheet or in the response to comments. (3-24-22)( )

**03. Electronic Submittals.** ~~Any i~~ Information ~~which~~ the Department requires to be submitted electronically, with an electronic signature approved by the Department, will become part of the Administrative Record in accordance with Subsections 600.01 and 02. (3-24-22)( )

**601. -- 999. (RESERVED)**

**IDAPA 59 – PUBLIC EMPLOYEES RETIREMENT SYSTEM OF IDAHO**

**59.01.01 – RULES FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)**

**DOCKET NO. 59-0101-2301**

**NOTICE OF INTENT TO PROMULGATE RULES –  
ZERO-BASED REGULATION (ZBR) NEGOTIATED RULEMAKING**

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 59-1301, 59-1314, 59-1372, 59-1383 and 59-1392, Idaho Code.

**MEETING SCHEDULE:** Two public meetings on the negotiated rulemaking will be held as follows. Additional meetings may be scheduled and will be posted on PERSI’s website (<https://www.persi.idaho.gov/home-2/persi-rulemaking/>) and [townhall.idaho.gov](http://townhall.idaho.gov).

<b>Tuesday, October 3, 2023 at 9 a.m. (MT)</b>	<b>Thursday, October 12, 2023 at 9 a.m. (MT)</b>
<b>Attend in person at: Public Employees Retirement System of Idaho (PERSI) 607 North 8th Street Boise, ID 83702</b>	

Rulemaking meetings will be held in person and via web conferencing to provide a rulemaking platform that enables broad participation by stakeholders from across the state and minimize travel for stakeholders. The meeting site will be accessible to persons with disabilities, if needed. Requests for accommodation must be made not later than five (5) days prior to the meeting to the agency address below.

**METHOD OF PARTICIPATION:** Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meetings. The telephone and web conferencing information for a specific meeting will be posted at least two days prior to the meeting. For those who cannot participate by attending the meeting, information for submitting written comments is provided below.

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

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

PERSI Rule, IDAPA 59.01.01.508.02 is being amended to define the commencement year when a member is required to take a minimum distribution as defined in the Internal Revenue Code section 401(a). This change is a result of Secure 2.0 Act 2022. PERSI rule 59.01.01.544 is being deleted as it is unnecessary.

The negotiated rulemaking is being presented as part of the PERSI plan to review each rule chapter every 5 years. Other than the changes provided above, there are no specific rulemaking changes planned by PERSI at this time except for evaluation and amendment consistent with the Governor’s [Executive Order 2020-01: Zero-Based Regulation](#). It is anticipated that rulemaking stakeholders will propose and advocate for rulemaking changes as part of the negotiated rulemaking process. PERSI intends to carefully consider all changes presented by the public and may propose certain changes so long as they are consistent with the rules’ statutory authority and the Governor’s Executive Order. PERSI will review the documents that are currently incorporated by reference in this rule and update that list as applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this negotiated rulemaking, contact Cheryl George, at (208) 287-9231. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the following PERSI website: <https://www.persi.idaho.gov/home-2/persi-rulemaking/>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 12, 2023.

DATED this 6th day of September, 2023.

Don Drum  
Executive Director  
Public Employees Retirement System of Idaho  
P.O. Box 83720, Boise, ID 83720-0078  
Phone: (208) 287-9230 Fax: (208) 334-3804  
Email [Don.Drum@PERSI.idaho.gov](mailto:Don.Drum@PERSI.idaho.gov)

# IDAPA 59 – PUBLIC EMPLOYEES RETIREMENT SYSTEM OF IDAHO

## 59.02.01 – RULES FOR THE JUDGES’ RETIREMENT FUND

DOCKET NO. 59-0201-2301

### NOTICE OF INTENT TO PROMULGATE RULES – ZERO-BASED REGULATION (ZBR) NEGOTIATED RULEMAKING

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 1-2002, Idaho Code.

**MEETING SCHEDULE:** Public meetings on the negotiated rulemaking will be held as follows. Additional meetings may be scheduled and will be posted on PERSI’s website: <https://www.persi.idaho.gov/home-2/persi-rulemaking/> and [townhall.idaho.gov](http://townhall.idaho.gov).

Tuesday, October 3, 2023 at 9 a.m. (MT)	Thursday, October 12, 2023 at 9 a.m. (MT)
<b>Attend in person at: Public Employees Retirement System of Idaho (PERSI) 607 North 8th Street Boise, ID 83702</b>	

Rulemaking meetings will be held in person and via web conferencing to provide a rulemaking platform that enables broad participation by stakeholders from across the state and minimize travel for stakeholders. The meeting site will be accessible to persons with disabilities, if needed. Requests for accommodation must be made not later than five (5) days prior to the meeting to the agency address below.

**METHOD OF PARTICIPATION:** Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meetings. The telephone and web conferencing information for a specific meeting will be posted at least two days prior to the meeting. For those who cannot participate by attending the meeting, information for submitting written comments is provided below.

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

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

IDAPA 59.02.01.010.04, IDAPA 59.02.01.010.11, IDAPA 59.02.01.010.16, IDAPA 59.02.01.103, IDAPA 59.02.01.252, IDAPA 59.02.01.300, IDAPA 59.02.01.301, IDAPA 59.02.01.401, IDAPA 59.02.01.403, and APPENDIX A are deleted as unnecessary. IDAPA 59.02.01.010.12 is amended to be specific to the Judicial Branch. IDAPA 59.02.01.010 subsections 13, 15 and 19 are added as new definitions for “Inactive” and “Retired Member” and to modify the definition of “member” to align with PERSI rules. IDAPA 59.02.01.010.20 is a new definition for “service credit” to support the current practice of only accruing service if they work 15 days in a month. This matches the PERSI rule. IDAPA 59.02.01.100 amends the rule to align with PERSI rules relating to Required Minimum Distribution and also to comply with federal law, Secure 2.0 Act of 2022 section 107. Unnecessary language is also deleted. IDAPA 59.02.01.102 Delete this as there are no options under the Judges Retirement Fund for annual additions. JRF does not have a purchase of service.

The negotiated rulemaking is being presented as part of the PERSI plan to review each rule chapter every 5 years. Other than the changes provided above, there are no specific rulemaking changes planned by PERSI at this time except for evaluation and amendment consistent with the Governor’s [Executive Order 2020-01: Zero-Based](#)

**Regulation.** It is anticipated that rulemaking stakeholders will propose and advocate for rulemaking changes as part of the negotiated rulemaking process. PERSI intends to carefully consider all changes presented by the public and may propose certain changes so long as they are consistent with the rules' statutory authority and the Governor's Executive Order. PERSI will review the documents that are currently incorporated by reference in this rule and update that list as applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this negotiated rulemaking, contact Cheryl George, at (208) 287-9231. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the following PERSI website: <https://www.persi.idaho.gov/home-2/persi-rulemaking/>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 12, 2023.

DATED this 6th day of September, 2023.

Don Drum  
Executive Director  
Public Employees Retirement System of Idaho  
P.O. Box 83720, Boise, ID 83720-0078  
Phone: (208) 287-9230 Fax: (208) 334-3804  
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# LEGAL NOTICE

## Summary of Proposed Rulemakings

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### PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

The following agencies of the state of Idaho have published the complete text and all required information concerning their intent to change or make new the following rules in the latest publication of the state Administrative Bulletin.

*The proposed rule public hearing request deadline is September 20, 2023, unless otherwise posted.  
The proposed rule written comment submission deadline is September 27, 2023, unless otherwise posted.  
(Temp & Prop) indicates the rulemaking is both Temporary and Proposed.  
(\*PH) indicates that a public hearing has been scheduled.*

#### **IDAPA 11 – IDAHO STATE POLICE 700 S Stratford Dr, Meridian, ID 83642**

**11-0701-2301, Rules Governing Motor Vehicles – General Rules.** Zero-Based Rulemaking (ZBR) Chapter Rewrite provides for education, safety, and lighting standards for all owners and operators of motor vehicles operating on highways under ISP jurisdiction.

**11-0703-2301, Rules Governing Emergency Vehicles/Authorized Emergency Vehicles.** ZBR Rewrite specifies the approval process for authorized emergency vehicles including reporting requirements for scope of duties, instruction courses, operating area, lighting, and dispatch communication.

**11-1001-2301, Rules Governing Idaho Public Safety and Security Information System.** Rulemaking establishes usage fees for law enforcement agencies accessing the ILETS network across Idaho.

**11-1301-2301, The Motor Carrier Rules.** ZBR Rewrite applies safety requirements to intrastate and foreign motor carriers that provide transportation to persons or property over Idaho highways.

#### **IDAPA 13 – IDAHO DEPARTMENT OF FISH AND GAME PO Box 25, Boise, ID 83707**

**13-0104-2301, Rules Governing Licensing.** (Temp & Prop) Removes limit for outfitter tag set-aside to increase tag allocation from verified use.

#### **IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE PO Box 83720, Boise, ID 83720-0036**

**\*16-0202-2301, Idaho Emergency Medical Services (EMS) Physician Commission.** (\*PH) ZBR Rewrite establishes standards for scope of practice and medical supervision for EMS licensed personnel, air medical, ambulance services, and nontransport EMS agencies.

**\*16-0301-2301, Eligibility for Health Care Assistance for Families and Children.** (\*PH) ZBR Rewrite details application requirements, financial and non-financial criteria, emergency conditions, and income disregards to obtain health coverage for adults and children.

**\*16-0302-2301, Skilled Nursing Facilities.** (\*PH) ZBR Rewrite promotes safe treatment of individuals housed in a facility through regulations and standards for the provision of adequate care and licensure of skilled nursing facilities in the state of Idaho.

**\*16-0304-2301, Idaho Food Stamp Program.** (\*PH) ZBR Rewrite contains benefit eligibility criteria administered by the Department to help raise the nutritional level among low-income households whose limited food purchasing power contributes to hunger and malnutrition.

**\*16-0306-2301, Refugee Medical Assistance.** (\*PH) Federal increase of eligibility period for medical assistance under the RMA program.

**\*16-0503-2301, Contested Case Proceedings and Declaratory Rulings.** (\*PH) ZBR Rewrite authorizes the Department and the Board to conduct contested case proceedings, issue declaratory rulings, and adopt rules governing such proceedings.

**IDAPA 17 – IDAHO INDUSTRIAL COMMISSION  
PO Box 83720, Boise, ID 83720-0041**

**\*17-1001-2301, Administrative Rules Under the Crime Victims Compensation Act.** (\*PH) ZBR Rewrite increases transparency and streamlines Program access, including removal of medical fee schedule and requirement for changing physicians and extends time to submit treatment bills.

**IDAPA 18 – DEPARTMENT OF INSURANCE  
PO Box 83720, Boise, ID 83720- 83720-0043**

**\*18-0102-2301, Schedule of Fees, Licenses, and Miscellaneous Charges.** (\*PH) ZBR Rewrite provides amounts to be collected for insurance fees, licenses, and miscellaneous charges.

**\*18-0404-2301, The Managed Care Reform Act Rule.** (\*PH) ZBR Rewrite defines and establishes operating procedures for a Managed Care Organization.

**\*18-0408-2301, Individual and Group Supplementary Disability Insurance Minimum Standards Rule.** (\*PH) ZBR Rewrite implements law to: standardize terms and coverages of individual and group supplementary disability insurance; facilitate public understanding and comparison of coverage; eliminate confusion with the purchase of coverages or settlement of claims; and to provide disclosure in marketing and sales.

**\*18-0601-2301, Rules Pertaining to Bail Agents.** (\*PH) ZBR Rewrite sets requirements and procedures relating to bail agents and regulates insurance producers applicable to bail agents.

**\*18-0602-2301, Producers Handling of Fiduciary Funds.** (\*PH) ZBR Rewrite applies to producers and bail agents for allowable fiduciary fund accounts and types, deposits of other funds, account designation, interest, and disbursement of funds.

**\*18-0603-2301, Rules Governing Disclosure Requirements for Insurance Producers When Charging Fees.** (\*PH) ZBR Chapter Repeal.

**\*18-0706-2301, Rules Governing Life and Health Reinsurance Agreements.** (\*PH) ZBR Rewrite sets standards for reinsurance agreements involving life insurance, annuities, or accident and sickness (disability) insurance so that financial statements properly reflect insurer's business.

**\*18-0710-2301, Corporate Governance Annual Disclosure.** (\*PH) ZBR Rewrite details procedures for filing and required content of the Corporate Governance Annual Disclosure, necessary to carry out the provisions of Title 41, Chapter 64, Idaho Code.

**\*18-0801-2301, Adoption of the International Fire Code.** (\*PH) ZBR Rewrite helps to protect life and property from fire and explosion in the state of Idaho through the State Fire Marshal adopting the International Fire Code and editions.

**IDAPA 20 – IDAHO DEPARTMENT OF LANDS  
PO Box 83720, Boise, ID 83720-0050**

**20-0301-2301, Rules Governing Dredge and Placer Mining Operations in Idaho.** ZBR Rewrite implements statutory provisions, which enables the removal of minerals while preserving water quality and ensuring rehabilitation for beneficial use of the land following mining.

**20-0303-2301, Rules Governing Administration of the Reclamation Fund.** ZBR Rewrite sets participation criteria for the Reclamation Fund, an alternative form of financial assurance required by law for mines. Fund is used to ensure lands are properly reclaimed, protecting public and wildlife.

**20-0305-2301, Navigable Waterways Mineral Leasing in Idaho.** ZBR Rewrite ensures the state is compensated for the exploration and extraction of minerals from the beds of all state-owned navigable waterways. Updates revise late payment policy and extend coverage to all waterways.

**IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES  
11341 W Chinden Blvd, Bldg 4, Boise, ID 83714**

**24-0701-2301, Rules of the Idaho State Board of Landscape Architects.** ZBR Repeals chapter and moves necessary provisions to IDAPA 24.02.01.

**\*24-1401-2301, Rules of the State Board of Social Work Examiners.** (\*PH) ZBR Rewrite governs the practice of social work in Idaho to protect the public health by establishing minimum practice standards and qualifications for applicants, supervision requirements, and licensure fees.

**\*24-3101-2301, Rules of the Idaho State Board of Dentistry.** (\*PH) ZBR Rewrite constitutes the minimum requirements for licensure and regulation of all dental health professionals – dentists, dental hygienists, and dental therapists – practicing in the state.

**\*24-3501-2301, Rules of the Outfitters and Guides Licensing Board.** (\*PH) Rulemaking clarifies impact of tag transfers and harmonizes tag allocations made by the Fish and Game Commission. Also, addresses competitive application process and outfitter limitations on Idaho rivers.

**\*24-3801-2301, Rules of the State of Idaho Board of Veterinary Medicine.** (\*PH) ZBR Rewrite applies licensing procedures, supervision requirements, standards of practice, inspections, and grounds for discipline of veterinarians, veterinary and euthanasia technicians, and agencies.

**\*24-3930-2302, Rules of Building Safety (Building Code Rules.** (\*PH) ZBR Rewrite adopts specific editions of building codes prescribed by law; provides fees for building plans examination services, permits, and inspections; and inspection processes on all public buildings and school facilities. Comment by 11-07-2023

**\*24-3931-2301, Rules for Factory Built Structures.** (\*PH) ZBR Rewrite governs persons engaged in the business of manufacturing, selling, or installing manufactured or mobile homes in Idaho.

**\*24-3950-2301, Rules of the Public Works Contractors License Board.** (\*PH) ZBR Rewrite prescribes requirements and application process for all branches across all classes of licensure of public works contractors performing construction and management services on public works projects.

**\*24-4001-2301, Rules for the Board of Naturopathic Health Care.** (\*PH) New Chapter comports legislative changes related to new naturopathic licenses and naturopathic registration types, to include fees and continuing education renewal requirements for licensure.

#### **IDAPA 29 – IDAHO POTATO COMMISSION**

**661 S Rivershore Ln, Ste 230, Eagle, ID 83616**

**29-0101-2301, Rules of the Idaho Potato Commission.** ZBR Rewrite governs: payment of taxes to, and procedural rules before, the Commission; records kept by growers, dealers, handlers, shippers, processors, container manufacturers, and out-of-state repackers; use of Certification Marks and Trademarks; and branding and labeling requirements.

#### **IDAPA 35 – IDAHO STATE TAX COMMISSION**

**11321 W Chinden Blvd, Bldg 2, Boise, ID 83714**

**\*35-0103-2301, Property Tax Administrative Rules.** (\*PH) ZBR Rewrite clarifies administrative aspects of property tax law in the state of Idaho. Comment by 10-12-2023

#### **IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY**

**1410 N Hilton St, Boise, ID 83706**

**\*58-0101-2301, Rules for the Control of Air Pollution in Idaho.** (\*PH) Proposed rule updates federal regulations incorporated by reference with the July 1, 2023, Code of Federal Regulations effective date. Also, adding back a defined term inadvertently omitted. Comment by 10-10-2023

**58-0108-2301, Idaho Rules for Public Drinking Water Systems.** ZBR Rewrite controls and regulates design, construction, operation, maintenance, and quality control of public drinking water, assuring systems are protected from contamination which may injure consumer health. Comment by 10-06-2023

**58-0125-2301, Rules Regulating the Idaho Pollutant Discharge Elimination System Program.** ZBR Rewrite establishes procedures and requirements for issuance and maintenance of authorization permits to discharge pollutants to waters of the United States. Comment by 10-06-2023

#### **NOTICE OF ADOPTED / AMENDED PROCLAMATION(S)**

##### **IDAPA 13 – IDAHO FISH AND GAME COMMISSION**

**13-0000-2300P7, Establishing Seasons and Limits for Hunting, Fishing, and Trapping in Idaho**

#### **NOTICES OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING**

(Please see the Administrative Bulletin for dates and times of meetings and other participant information)

##### **IDAPA 50 – COMMISSION OF PARDONS AND PAROLE**

**50-0101-2301, Rules of the Commission of Pardons and Parole**

**IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY**

**58-0103-2301**, Individual/Subsurface Sewage Disposal Rules and Rules for Cleaning of Septic Tanks

**58-0110-2301**, Rules Regulating the Disposal of Radioactive Materials Not Regulated Under the Atomic Energy Act of 1954, as Amended

**IDAPA 59 – PUBLIC EMPLOYEES RETIREMENT SYSTEM OF IDAHO**

**59-0101-2301**, Rules for the Public Employee Retirement System of Idaho (PERSI)

**59-0201-2301**, Rules for the Judges' Retirement Fund

Please refer to the Idaho Administrative Bulletin **September 6, 2023, Volume 23-9**, for the notices and text of all rulemakings, proclamations, negotiated rulemaking and public hearing information and schedules, executive orders of the Governor, and agency contact information.

*Electronic issues of the Idaho Administrative Bulletin can be viewed at [www.adminrules.idaho.gov/](http://www.adminrules.idaho.gov/)*

Office of the Administrative Rules Coordinator, Division of Financial Management  
P.O. Box 83720, Boise, ID 83720-0032  
Phone: 208-334-3900; Email: [adminrules@dfm.idaho.gov](mailto:adminrules@dfm.idaho.gov)

# **CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES**

*Office of the Administrative Rules Coordinator  
Division of Financial Management  
Office of the Governor  
July 1, 1993 – Present*

## **CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES**

This index provides a history of all agency rulemakings beginning with the first Administrative Bulletin in July 1993 to the most recent Bulletin publication. It tracks all rulemaking activities on each chapter of rules by the rulemaking docket numbers and includes negotiated, temporary, proposed, pending and final rules, public hearing notices, vacated rulemaking notices, notice of legislative actions taken on rules, and executive orders of the Governor.

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## **ABRIDGED RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES**

**(Index of Current and Active Rulemakings)**

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

*April 6, 2023 – September 6, 2023*

*(PLR 2024) – Final Effective Date Is Pending Legislative Review in 2024*

*(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-2301** *Rules of the Idaho Department of Agriculture* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 02, Chapters 13, 15; Title 03, Chapter 03; Title 04, Chapters 14, 23, 30, 32; and Title 06, Chapters 04, 09, 10, 16 – Bulletin Vol. 23-5

***02.02.13, Commodity Dealers’ Rules***

**02-ZBRR-2301** *Rules of the Idaho Department of Agriculture* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 02, Chapter 13 – Bulletin Vol. 23-5

***02.02.15, Rules Governing the Seed Indemnity Fund***

**02-ZBRR-2301** *Rules of the Idaho Department of Agriculture* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 02, Chapter 15 – Bulletin Vol. 23-5

***02.03.03, Rules Governing Pesticide and Chemigation Use and Application***

**02-ZBRR-2301** *Rules of the Idaho Department of Agriculture* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 03, Chapter 3 – Bulletin Vol. 23-5

***02.04.14, Rules Governing Dairy Byproduct***

**02-ZBRR-2301** *Rules of the Idaho Department of Agriculture* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 04, Chapter 14 – Bulletin Vol. 23-5

***02.04.23, Rules Governing Commercial Livestock Truck Washing Facilities***

**02-ZBRR-2301** *Rules of the Idaho Department of Agriculture* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 04, Chapter 23 – Bulletin Vol. 23-5

***02.04.30, Rules Governing Environmental and Nutrient Management***

**02-ZBRR-2301** *Rules of the Idaho Department of Agriculture* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 04, Chapter 30 – Bulletin Vol. 23-5

***02.04.32, Rules Governing Poultry Operations***

**02-ZBRR-2301** *Rules of the Idaho Department of Agriculture* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 04, Chapter 32 – Bulletin Vol. 23-5

***02.06.01, Rules Governing the Production and Distribution of Seed***

**02-0601-2301** Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 23-7

***02.06.04, Rules Governing Plant Exports***

**02-ZBRR-2301** *Rules of the Idaho Department of Agriculture* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 06, Chapter 04 – Bulletin Vol. 23-5

***02.06.09, Rules Governing Invasive Species and Noxious Weeds***

**02-ZBRR-2301** *Rules of the Idaho Department of Agriculture* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 06, Chapter 09 – Bulletin Vol. 23-5

***02.06.10, Rules Governing the Growing of Potatoes***

**02-ZBRR-2301** *Rules of the Idaho Department of Agriculture* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 06, Chapter 10 – Bulletin Vol. 23-5

***02.06.16, Rules Governing Honey Standards***

**02-ZBRR-2301** *Rules of the Idaho Department of Agriculture* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 06, Chapter 16 – Bulletin Vol. 23-5

***IDAPA 04 – OFFICE OF THE ATTORNEY GENERAL***

***04.11.01, Idaho Rules of Administrative Procedure of the Attorney General***

**04-1101-2300** Notice of Revocation of Final Rule, Bulletin Vol. 23-7

***IDAPA 05 – DEPARTMENT OF JUVENILE CORRECTIONS***

***05.01.02, Rules and Standards for Secure Juvenile Detention Centers***

**05-0102-2301** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-6

***05.01.04, Uniform Standards for Juvenile Probation Services***

**05-0104-2301** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-4

***05.02.01, Rules for Residential Treatment Providers***

**05-0201-2301** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-6

***IDAPA 08 – IDAHO STATE BOARD OF EDUCATION  
AND STATE DEPARTMENT OF EDUCATION***

***08.01.02, Rules Governing the Postsecondary Credit Scholarship Program***

**08-0102-2301** Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 23-6

***08.01.13, Rules Governing the Opportunity Scholarship Program***

**08-0113-2302** Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 23-7

**08-0113-2301** Adoption of Temporary Rule, Bulletin Vol. 23-7 (eff. 7-1-23)T

***08.02.01, Rules Governing Administration***

**08-0201-2301** Adoption of Temporary Rule, Bulletin Vol. 23-6 (eff. 4-6-23)T

***08.02.03, Rules Governing Thoroughness***

**08-0203-2301** Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 23-6

***08.04.01, Rules of the Idaho Digital Learning Academy***

**08-0401-2301** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-6

***IDAPA 11 – IDAHO STATE POLICE***

**Idaho State Brand Board**

***11.02.01, Rules of the Idaho State Brand Board***

**11-0201-2301** Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 23-7

**Idaho State Racing Commission**

***11.04.01, Rules Governing the Idaho State Racing Commission***

**11-0401-2301** Notice of Temporary and Proposed Rule (New Chapter, Fee Rule), Bulletin Vol. 23-5 (eff. 4-6-23)T

**Alcohol Beverage Control Bureau**

***11.05.01, Rules Governing Alcohol Beverage Control***

**11-0501-2301** Adoption of Temporary Rule, Bulletin Vol. 23-7 (eff. 7-1-23)T

**Commercial Vehicle Safety Division**

**11.07.01, Rules Governing Motor Vehicles – General Rules**

- 11-0701-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-9
- 11-0701-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-7

**11.07.03, Rules Governing Emergency Vehicles/Authorized Emergency Vehicles**

- 11-0703-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-9
- 11-0703-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-7

**11.10.01, Rules Governing Idaho Public Safety and Security Information System**

- 11-1001-2301 Temporary and Proposed (Fee) Rule, Bulletin Vol. 23-9 (eff. 10-1-23)T

**11.13.01, The Motor Carrier Rules**

- 11-1301-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-9
- 11-1301-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-7

**IDAPA 12 – DEPARTMENT OF FINANCE**

- 12-ZBRR-2301 *Rules of the Department of Finance* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 01, Chapters 04, 08, and 10 – Bulletin Vol. 23-8

**12.01.04, Rules Pursuant to the Idaho Credit Union Act**

- 12-ZBRR-2301 *Rules of the Department of Finance* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 01, Chapter 04 – Bulletin Vol. 23-8

**12.01.08, Rules Pursuant to the Uniform Securities Act (2004)**

- 12-ZBRR-2301 *Rules of the Department of Finance* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 01, Chapter 08 – Bulletin Vol. 23-8

**12.01.10, Rules Pursuant to the Idaho Residential Mortgage Practices Act**

- 12-ZBRR-2301 *Rules of the Department of Finance* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 01, Chapter 10 – Bulletin Vol. 23-8

**IDAPA 13 – IDAHO FISH AND GAME COMMISSION**

**Establishing Seasons and Limits for Hunting, Fishing, and Trapping in Idaho**

- 13-0000-2300P7 Notice of Adopted / Amended Proclamations for Calendar Year 2023, Bulletin Vol. 23-9
- 13-0000-2300P6 Notice of Adopted / Amended Proclamations for Calendar Year 2023, Bulletin Vol. 23-7
- 13-0000-2300P5 Notice of Adopted / Amended Proclamations for Calendar Year 2023, Bulletin Vol. 23-6
- 13-0000-2300P4 Notice of Adopted / Amended Proclamations for Calendar Year 2023, Bulletin Vol. 23-5
- 13-0000-2300P3 Notice of Adopted / Amended Proclamations for Calendar Year 2023, Bulletin Vol. 23-4
- 13-0000-2300P2 Notice of Adopted / Amended Proclamations for Calendar Year 2023, Bulletin Vol. 23-3
- 13-0000-2300P1 Notice of Adoption of Proclamation for Calendar Year 2023, Bulletin Vol. 23-1

**13.01.04, Rules Governing Licensing**

- 13-0104-2301 Temporary and Proposed Rule, Bulletin Vol. 23-9 (eff. 7-27-23)T

**13.01.06, Rules Governing Classification and Protection of Wildlife**

- 13-0106-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-4

**13.01.08, Rules Governing Taking of Big Game Animals**

- 13-0108-2301 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 23-4

**13.01.11, Rules Governing Fish**

[13-0111-2301](#) Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-4

**13.01.12, Rules Governing Commercial Fishing**

[13-0112-2301](#) Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-4

**13.01.15, Rules Governing the Use of Dogs**

[13-0115-2301](#) Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-4

**IDAPA 15 – OFFICE OF THE GOVERNOR**

**Executive Orders of the Governor**

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Executive Order No. [2023-02](#) Provisions for State Cooperation With the National Flood Insurance Program Under the National Flood Insurance Act of 1968, as Amended, Bulletin Vol. 23-3

Executive Order No. [2023-01](#) Pacific Northwest Economic Region Idaho Council, Bulletin Vol. 23-3

**Division of Human Resources and Personnel Commission**

**15.04.01, Rules of the Division of Human Resources and Idaho Personnel Commission**

[15-0401-2301](#) Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-8

**IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE**

**16.01.02, Emergency Medical Services (EMS) – Rule Definitions**

[16-0102-2301](#) Notice of Proposed Rulemaking, Bulletin Vol. 23-8

**16.01.03, Emergency Medical Services (EMS) -- Agency Licensing Requirements**

[16-0103-2301](#) Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-8

[16-0103-2301](#) Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-4

**16.02.02, Idaho Emergency Medical Services (EMS) Physician Commission**

[16-0202-2301](#) Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-9

[16-0202-2301](#) Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-5

**16.02.06, Quality Assurance for Clinical Laboratories**

[16-0206-2301](#) Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-8

[16-0206-2301](#) (Second) Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-4

[16-0206-2301](#) Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-3

**16.02.24, Clandestine Drug Laboratory Cleanup**

[16-0224-2301](#) Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-8

[16-0224-2301](#) Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-4

**16.02.25, State Laboratory Fees**

[16-0225-2301](#) Notice of Proposed (Fee) Rule, Bulletin Vol. 23-7

**16.03.01, Eligibility for Health Care Assistance for Families and Children**

[16-0301-2301](#) Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-9

[16-0301-2301](#) Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-4

**16.03.02, Skilled Nursing Facilities**

[16-0302-2301](#) Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-9

[16-0302-2301](#) Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-5

**16.03.04, Idaho Food Stamp Program**

16-0304-2301\* Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-9

**16.03.05, Eligibility for Aid to the Aged, Blind, and Disabled (AABD)**

16-0305-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-4

**16.03.06, Refugee Medical Assistance**

16-0306-2301 Notice of Proposed Rulemaking, Bulletin Vol. 23-9

**16.03.09, Medicaid Basic Plan Benefits**

16-0309-2301 Notice of Temporary and Proposed Rule, Bulletin Vol. 23-7 (eff. 7-1-23)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

**16.03.18, Medicaid Cost-Sharing**

16-0318-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-5

**16.03.22, Residential Assisted Living Facilities**

16-0322-2301 Notice of Proposed Rule, Bulletin Vol. 23-7

16-0322-2301 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 23-3

**16.04.18, Children’s Agencies and Residential Licensing**

16-0418-2301 Notice of Temporary and Proposed Rule, Bulletin Vol. 23-5 (eff. 4-6-23)T

**16.05.03, Contested Cases Proceedings and Declaratory Rulings**

16-0503-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-9

16-0503-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-2

16-0503-2301 (2nd) Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-3

**16.06.01, Child and Family Services**

16-0601-2301 Notice of Temporary and Proposed Rule, Bulletin Vol. 23-7 (eff. 8-1-23)T

**16.06.02, Foster Care Licensing**

16-0602-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-8

**16.06.03, Daycare Licensing**

16-0603-2301 Notice of Proposed Rulemaking (New Chapter, Fee Rule), Bulletin Vol. 23-8

**16.07.19, Certification of Peer Support Specialists and Family Support Partners**

16-0719-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-8

16-0719-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-2

**16.07.25, Prevention of Minors’ Access to Tobacco Products**

16-0725-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-8

16-0725-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-3

**16.07.33, Adult Mental Health Services**

16-0733-2201 OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 23-6 (eff. 4-6-23)

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

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#### ***17.10.01, Administrative Rules Under the Crime Victims Compensation Act***

- 17-1001-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-9  
17-1001-2301 (Second) Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-6  
17-1001-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-5

### ***IDAPA 18 – DEPARTMENT OF INSURANCE***

- 18-ZBRR-2301 *Rules of the Idaho Department of Insurance* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 01, Chapter 02; Title 04, Chapters 04, 08; Title 06, Chapters 01-03; Title 07, Chapters 06, 10; and Title 08, Chapter 01 – Bulletin Vol. 23-6

#### ***18.01.02, Schedule of Fees, Licenses, and Miscellaneous Charges***

- 18-0102-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-9  
18-ZBRR-2301 *Rules of the Idaho Department of Insurance* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 01, Chapter 02 – Bulletin Vol. 23-6

#### ***18.04.04, The Managed Care Reform Act Rule***

- 18-0404-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-9  
18-ZBRR-2301 *Rules of the Idaho Department of Insurance* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 04, Chapter 04 – Bulletin Vol. 23-6

#### ***18.04.08, Individual and Group Supplemental Disability Insurance Minimum Standards Rule***

- 18-0408-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-9  
18-ZBRR-2301 *Rules of the Idaho Department of Insurance* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 04, Chapter 08 – Bulletin Vol. 23-6

#### ***18.06.01, Rules Pertaining to Bail Agents***

- 18-0601-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-9  
18-ZBRR-2301 *Rules of the Idaho Department of Insurance* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 06, Chapter 01 – Bulletin Vol. 23-6

#### ***18.06.02, Producers Handling of Fiduciary Funds***

- 18-0602-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-9  
18-ZBRR-2301 *Rules of the Idaho Department of Insurance* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 06, Chapter 02 – Bulletin Vol. 23-6

#### ***18.06.03, Rules Governing Disclosure Requirements for Insurance Producers When Charging Fees***

- 18-0603-2301 Notice of Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 23-9  
18-ZBRR-2301 *Rules of the Idaho Department of Insurance* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 06, Chapter 03 – Bulletin Vol. 23-6

#### ***18.07.06, Rules Governing Life and Health Reinsurance Agreements***

- 18-0706-2301\* Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-9  
\*Changes chapter name from: “Rules Governing Life and Health Reinsurance Agreements”  
18-ZBRR-2301 *Rules of the Idaho Department of Insurance* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 07, Chapter 06 – Bulletin Vol. 23-6

#### ***18.07.10, Corporate Governance Annual Disclosure***

- 18-0710-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-9

**18-ZBRR-2301** *Rules of the Idaho Department of Insurance* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 07, Chapter 10 – Bulletin Vol. 23-6

**18.08.01, Adoption of the International Fire Code**

**18-0801-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-9

**18-ZBRR-2301** *Rules of the Idaho Department of Insurance* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 08, Chapter 01 – Bulletin Vol. 23-6

**IDAPA 20 – DEPARTMENT OF LANDS**

**20.01.01, Rules of Practice and Procedure Before the State Board of Land Commissioners**

**20-0101-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-8

**20-0101-2301** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-5

**20.03.01, Rules Governing Dredge and Placer Mining Operations in Idaho**

**20-0301-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-9

**20-0301-2301** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-4

**20.03.03, Rules Governing Administration of the Reclamation Fund**

**20-0303-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-9

**20-0303-2301** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-4

**20.03.05, Riverbed Mineral Leasing in Idaho**

**20-0305-2301\*** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-9

*\*Changes chapter name from: "Riverbed Mineral Leasing in Idaho"*

**20-0305-2301** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-4

**20.05.01, Rules Pertaining to the Recreational Use of Endowment Land**

**20-0501-2301** Notice of Intent to Promulgate Rules (New Chapter) – Negotiated Rulemaking, Bulletin Vol. 23-6

**IDAPA 21 – DIVISION OF VETERANS SERVICES**

**21.01.04, Rules Governing Idaho State Veterans Cemeteries**

**21-0104-2301** Notice of Temporary and Proposed Rule, Bulletin Vol. 23-3 (eff. 3-1-23)T

**IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES**

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – (Second) Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 01, Chapter 01; Title 05, Chapter 01; Title 06, Chapter 01; Title 07, Chapter 01; Title 11, Chapter 01; Title 13, Chapter 01; Title 14, Chapter 01; Title 15, Chapter 01; Title 16, Chapter 01; Title 18, Chapter 01; Title 27, Chapter 01; Title 28, Chapter 01; Title 31, Chapter 01; Title 38, Chapter 01; and Title 39, Chapters 30, 31, 50 – Bulletin Vol. 23-6

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 01, Chapter 01; Title 05, Chapter 01; Title 06, Chapter 01; Title 07, Chapter 01; Title 11, Chapter 01; Title 13, Chapter 01; Title 14, Chapter 01; Title 15, Chapter 01; Title 16, Chapter 01; Title 18, Chapter 01; Title 27, Chapter 01; Title 28, Chapter 01; Title 31, Chapter 01; Title 38, Chapter 01; and Title 39, Chapters 30, 31, 50 – Bulletin Vol. 23-4

**24.01.01, Rules of the Board of Architects and Landscape Architects**

**24-0101-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-8

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – (Second) Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 01, Chapter 01 – Bulletin Vol. 23-6

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 01, Chapter 01 – Bulletin Vol. 23-4

**24.05.01, Rules of the Board of Drinking Water and Wastewater Professionals**

**24-0501-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-8

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – (Second) Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 05, Chapter 01 – Bulletin Vol. 23-6

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 05, Chapter 01 – Bulletin Vol. 23-4

**24.06.01, Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants**

**24-0601-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-8

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – (Second) Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 06, Chapter 01 – Bulletin Vol. 23-6

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 06, Chapter 01 – Bulletin Vol. 23-4

**24.07.01, Rules of the Idaho State Board of Landscape Architects**

**24-0701-2301** Notice of Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 23-9

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – (Second) Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 07, Chapter 01 – Bulletin Vol. 23-6

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 01, Chapter 07 – Bulletin Vol. 23-4

**24.11.01, Rules of the State Board of Podiatry**

**24-1101-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-8

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – (Second) Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 11, Chapter 01 – Bulletin Vol. 23-6

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 11, Chapter 01 – Bulletin Vol. 23-4

**24.13.01, Rules Governing the Physical Therapy Licensure Board**

**24-1301-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-8

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – (Second) Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 13, Chapter 01 – Bulletin Vol. 23-6

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 13, Chapter 01 – Bulletin Vol. 23-4

**24.14.01, Rules of the State Board of Social Work Examiners**

**24-1401-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-9

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – (Second) Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 14, Chapter 01 – Bulletin Vol. 23-6

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 1s4, Chapter 01 – Bulletin Vol. 23-4

**24.15.01, Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists**

**24-1501-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-8

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – (Second) Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 15, Chapter 01 – Bulletin Vol. 23-6

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 15, Chapter 01 – Bulletin Vol. 23-4

**24.16.01, Rules of the State Board of Dentistry**

**24-1601-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-8

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – (Second) Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 16, Chapter 01 – Bulletin Vol. 23-6



**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 16, Chapter 01 – Bulletin Vol. 23-4

**24.18.01, Rules of the Real Estate Appraiser Board**

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – (Second) Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 18, Chapter 01 – Bulletin Vol. 23-6

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 18, Chapter 01 – Bulletin Vol. 23-4

**24.27.01, Rules of the Idaho State Board of Massage Therapy**

**24-2701-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-8

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – (Second) Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 27, Chapter 01 – Bulletin Vol. 23-6

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 27, Chapter 01 – Bulletin Vol. 23-4

**24.28.01, Rules of the Barber and Cosmetology Services Licensing Board**

**24-2801-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-8

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – (Second) Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 28, Chapter 01 – Bulletin Vol. 23-6

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 28, Chapter 01 – Bulletin Vol. 23-4

**24.31.01, Rules of the Idaho State Board of Dentistry**

**24-3101-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-9

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – (Second) Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 31, Chapter 01 – Bulletin Vol. 23-6

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 31, Chapter 01 – Bulletin Vol. 23-4

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

**24-3301-2301** Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 23-7

**24.35.01, Rules of the Outfitters and Guides Licensing Board**

**24-3501-2301** Notice of Proposed Rulemaking, Bulletin Vol. 23-9

**24-3501-2301** Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 23-7

**24.38.01, Rules of the State of Idaho Board of Veterinary Medicine**

**24-3801-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-9

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – (Second) Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 38, Chapter 01 – Bulletin Vol. 23-6

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 38, Chapter 01 – Bulletin Vol. 23-4

**24.39.10, Rules of the Idaho Electrical Board**

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**24-3910-2301** Adoption of Temporary Rule, Bulletin Vol. 23-5 (eff. 3-28-23)T

**24.39.30, Rules of Building Safety (Building Code Rules)**

**24-3930-2302** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-9

**24-3930-2302** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-6

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 39, Chapter 30 – Bulletin Vol. 23-4

**24-3930-2301** Notice of Rulemaking – Adoption of Temporary (Fee) Rule, Bulletin Vol. 23-4 (eff. *sine die* 2023)T

**24.39.31, Rules for Factory Built Structures**

- 24-3931-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-9  
**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – (Second) Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 39, Chapter 31 – Bulletin Vol. 23-6  
**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 39, Chapter 31 – Bulletin Vol. 23-4

**24.39.50, Rules of the Public Works Contractors License Board**

- 24-3950-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-9  
**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – (Second) Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 39, Chapter 50 – Bulletin Vol. 23-6  
**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 39, Chapter 50 – Bulletin Vol. 23-4

**24.40.01, Rules for the Board of Naturopathic Health Care**

- 24-4001-2301** Notice of Proposed Rulemaking (New Chapter, Fee Rule), Bulletin Vol. 23-9  
**24-4001-2301** Notice of Intent to Promulgate Rules – Negotiated Rulemaking (New Chapter), Bulletin Vol. 23-7

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**26.01.10, Rules Governing the Administration of Temporary Permits on Lands Owned by the Idaho Department of Parks and Recreation**

- 26-0110-2301** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-8

**26.01.20, Rules Governing the Administration of Park and Recreation Areas and Facilities**

- 26-0120-2301** Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 23-8

**26.01.34, Idaho Protection Against Invasive Species Sticker Rules**

- 26-0134-2201** Temporary and Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 23-8 (eff. 8-30-23)T  
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**IDAPA 29 – IDAHO POTATO COMMISSION**

**29.01.01, Rules of the Idaho Potato Commission**

- 29-0101-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-9  
**29-0101-2301** (Second) Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-5  
**29-0101-2301** Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 23-3

**IDAPA 31 – PUBLIC UTILITIES COMMISSION**

- 31-ZBRR-2301** *Rules of the Idaho Public Utilities Commission* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 12, Chapter 01; Title 21, Chapter 01; Title 26, Chapter 01; and Title 31, Chapter 01 – Bulletin Vol. 23-6

**31.12.01, System of Accounts for Public Utilities Regulated by the Idaho Public Utilities Commission**

- 31-ZBRR-2301** *Rules of the Idaho Public Utilities Commission* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 12, Chapter 01 – Bulletin Vol. 23-6

**31.21.01, Customer Relations Rules for Gas, Electric & Water Public Utilities (the Utility Customer Relations Rules)**

- 31-ZBRR-2301** *Rules of the Idaho Public Utilities Commission* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 21, Chapter 01 – Bulletin Vol. 23-6

**31.26.01, Master-Metering Rules for Electric Utilities**

**31-ZBRR-2301** *Rules of the Idaho Public Utilities Commission* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 26, Chapter 01 – Bulletin Vol. 23-6

**31.31.01, Gas Service Rules**

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