

STATE AFFAIRS COMMITTEE
ADMINISTRATIVE RULES REVIEW
Table of Contents
2014 Legislative Session

IDAPA 11 - IDAHO STATE POLICE	
IDAHO STATE RACING COMMISSION	
<i>11.04.02 - Rules Governing Simulcasting</i>	
Docket No. 11-0402-1301	3
LSO Rules Analysis Memo	
<i>11.04.11 - Rules Governing Equine Veterinary Practices, Permitted Medications, Banned Substances and Drug Testing of Horses</i>	
Docket No. 11-0411-1301	13
LSO Rules Analysis Memo	
IDAPA 15 - OFFICE OF THE GOVERNOR	
MILITARY DIVISION - BUREAU OF HOMELAND SECURITY	
<i>15.06.03 - Public Safety Communications Rules</i>	
Docket No. 15-0603-1301	16
LSO Rules Analysis Memo	
<i>15.06.04 - Rules Governing Idaho Youth Challenge Program</i>	
Docket No. 15-0604-1301 (New Chapter)	24
LSO Rules Analysis Memo	
<i>15.13.01 - Rules of the Idaho Emergency Response Commission</i>	
Docket No. 15-1301-1301 (Chapter Repeal)	29
LSO Rules Analysis Memo	
IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION	
<i>31.01.01 - Rules of Procedure of the Idaho Public Utilities Commission</i>	
Docket No. 31-0101-1301	32
LSO Rules Analysis Memo	
<i>31.71.03 - Railroad Safety and Accident Reporting Rules</i>	
Docket No. 31-7103-1301	45
LSO Rules Analysis Memo	
IDAPA 34 - SECRETARY OF STATE	
<i>34.06.01 - Rules Governing the Electronic Recording of Real Property</i>	
Docket No. 34-0601-1301 (New Chapter)	49
LSO Rules Analysis Memo	
IDAPA 38 - DEPARTMENT OF ADMINISTRATION	
<i>38.04.06 - Rules Governing Use of the Exterior of State Property in the Capitol Mall and Other State Facilities</i>	

Docket No. 38-0406-1301	58
LSO Rules Analysis Memo	
<i>38.04.08 - Rules Governing Use of the State Capitol Exterior</i>	
Docket No. 38-0408-1301	68
LSO Rules Analysis Memo	
IDAPA 52 - IDAHO STATE LOTTERY COMMISSION	
<i>52.01.02 - Gaming Rules of the Idaho State Lottery Commission</i>	
Docket No. 52-0102-1301	82
LSO Rules Analysis Memo	

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

11.04.02 - RULES GOVERNING SIMULCASTING

DOCKET NO. 11-0402-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the August 7, 2013 Idaho Administrative Bulletin, [Vol. 13-8, pages 109 through 115](#).

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

This rule does not create an impact on the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Teresa Baker, Idaho State Police, 208-884-7122.

DATED this 25th day of November, 2013.

Frank Lamb
Executive Director
Idaho Racing Commission
700 S Stratford Dr.
Meridian, ID 83642
Phone: 208-884-7082
Fax: 208-884-7098

**THE FOLLOWING NOTICE WAS PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rule is **July 1, 2013**.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 54-2506 and 54-2512a, 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 August 21, 2013.

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:

A new statute, Section 54-2512A, Idaho Code, (HB220) authorized historical horse race wagering and was effective July 1, 2013. This statute charges the Racing Commission with enforcing and regulating all historical horse race wagering in Idaho. Rules need to be in effect in order to fulfill legislative directives.

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

1. Regulation of Pari-Mutuel Wagering is necessary to protect the public welfare.
2. Statutory amendment of section 54-2512A, Idaho Code, authorizing the use of Historical Racing Wagering, and charging the Racing Commission with promulgating rules.
3. Historical Racing Wagering confers benefits to the following groups: Idaho Track Distribution Account, Idaho Breed Distribution Account, Idaho Public Schools, and the Idaho Horse Council Youth Program.

FEE SUMMARY: No fees are imposed by this rule.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no negative impact on the state general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because statutory changes went into effect before rules could be negotiated.

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: No materials were incorporated by reference into this rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Frank Lamb, Racing Commission Executive Director, at 208-884-7080.

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 August 28, 2013.

DATED this 12th day of July, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-0402-1301

010. DEFINITIONS.

01. Association Which Accepts the Wager. The guest association to which the bettor contributes his money to the pari-mutuel pool and receives a pari-mutuel ticket. (4-9-09)

02. Authorized User. A person authorized by the Racing Commission to receive, decode, and use for legal purposes the encrypted simulcast signal of pari-mutuel events. (4-9-09)

03. Breakage. The odd cents rounded down to the lowest multiple of ten cents (\$.10) in a positive pool and down to the lowest multiple of five cents (\$.05) in a minus pool. (4-9-09)

04. Combined Pools. The pari-mutuel wagers at one (1) or more guest associations being contributed into the pari-mutuel pools of a host association. (4-9-09)

05. Decoder. A device or means to convert encrypted audio-visual signals or data into a form recognizable as the original content of the signals. (4-9-09)

06. Designated Area. An age controlled area approved by the Commission where Historical Horse Race Terminals are located. ()

067. Downlink. A receiving antenna coupled with an audio-visual signal receiver that

is compatible with and capable of receiving simultaneous audio-visual signals or data emanating from a host association. This includes the electronic transfer of received signals from the receiving antenna to TV monitors within the satellite facility. (4-9-09)

078. Enclosure, Enclosure-Public. Includes all enclosed areas of the simulcast wagering facility. (4-9-09)

089. Encryption. The scrambling or other manipulation of the audio-visual signals to mask the original content of the signal and so cause such signals to be indecipherable and unrecognizable to any person receiving such signal. (4-9-09)

109. Foreign Jurisdiction. A jurisdiction of a foreign country or political subdivision thereof. (4-9-09)

101. Guest, Guest Association or Simulcast Operator. A simulcast licensee authorized by the Racing Commission to offer, sell, cash, redeem or exchange pari-mutuel tickets on races being run at a host association. (4-9-09)

112. Handle or Gross Handle. Total amount of money wagered on a race less refunds and cancels. (4-9-09)

13. Historical Horse Race. A race involving live horses that was conducted in the past and that is rebroadcast by electronic means and shown on a delayed or replayed basis for the purposes of wagering and that is conducted at a facility that is authorized to show simulcast or televised races, or both, (also known as "instant racing"). ()

124. Horse. Includes filly, mare, colt, horse or gelding in general; when referring to sex, filly becomes a mare when five (5) years old; a horse is an intact male when five (5) years old or older. (4-9-09)

135. Host or Host Association. The racing association conducting a licensed horse racing meeting when it is authorized by the Racing Commission to simulcast its racing program. It may also be considered the sending track which means any track from which simulcast signals originate. (4-9-09)

146. Hub. A facility that acts as an intermediary between pari-mutuel wagering facilities for the transmission of wagering data and that is responsible for generating all reports necessary for the reconciliation of payments. (4-9-09)

157. Interstate Simulcast Wagering. (4-9-09)

a. Wagering conducted by a betting system outside the state of Idaho on the results of one (1) or more races being run at an Idaho host association; or (4-9-09)

b. Wagering conducted by a betting system within the state of Idaho on the results of one (1) or more races being run at a host association outside the state of Idaho. (4-9-09)

168. Intrastate Simulcasting Wagering. Pari-mutuel wagering at an Idaho guest

association on Idaho horse racing events run at an Idaho host association. (4-9-09)

179. Racing Association. Any person licensed by the Racing Commission to conduct a race meet and pari-mutuel wagering. (4-9-09)

1820. Racing Commission. Three (3) member Idaho State Racing Commission created by Section 54-2503, Idaho Code, or its designee. (4-9-09)

1921. Simulcast. The telecast or other transmission of live audio and visual signals of a race, transmitted from a sending track to a receiving location, for the purpose of wagering conducted on the race at the receiving location. (4-9-09)

202. Simulcast Facility. The physical premises, structure and equipment utilized by a guest or host association for conducting pari-mutuel wagering on horse racing events and permitted pari-mutuel events. Such facility must be a part of the license granted to the guest or host association. (4-9-09)

213. Simulcast Service Supplier. (4-9-09)

a. A person engaged in providing service, supplies or equipment necessary to the operation of intrastate, interstate or out-of-state simulcast wagering for use by a host association, guest association, simulcast operator, or authorized user, including pari-mutuel wagering terminals, uplink, downlink, television receivers and related equipment. (4-9-09)

b. It does not include persons authorized by the Federal Communications Commission to provide telephone service or space segment time on satellite transponders. (4-9-09)

224. Satellite Transponder, Transponder. Leased space segment time of an earth-orbit communication satellite. (4-9-09)

235. Take or Takeout. Money deducted from mutuel pools that is shared by the track and local and state governing bodies in the form of a tax. (4-9-09)

26. Terminal. The device connected to the pari-mutuel system used to place wagers. ()

247. Totalisator. A computer that, directly or indirectly through one (1) or more other totalisators, receives pari-mutuel wagering information, calculates pay-offs for winning tickets and generates reports with respect to such information, and may refer to the linked computers of the hub and the track. (4-9-09)

258. Uplink. An earth station broadcasting facility, whether mobile or fixed, which is used to transmit audio-visual signals or data on Federal Communication Commission-controlled frequencies, and includes any electronic transfer of the audio-visual signals from within the racing enclosure to the location of the transmitter at the uplink. (4-9-09)

(BREAK IN CONTINUITY OF SECTIONS)

029. NET POOL PRICING.

01. Takeout Rates. If takeout rates are not the same for all jurisdictions and net pool pricing is utilized, the contract must specify net pool pricing. (4-9-09)

a. Individual wagering transactions are deemed to be made at the point of sale in the state where placed unless otherwise specified by statute or court ruling. (4-9-09)

b. Any surcharges or withholdings in addition to the takeout must only be applied in the jurisdiction otherwise imposing such surcharges or withholdings. (4-9-09)

c. In determining whether to approve an interstate common pool which does not include the host track or which includes races from more than one racing association, the Racing Commission will consider and may approve use of a bet type which is not utilized at the host association, application of a takeout rate not in effect at the live event track, or other factors which are presented to the Racing Commission. (4-9-09)

d. The content and format of the visual display of racing and wagering information at facilities in other jurisdictions where wagering is permitted in the interstate common pool need not be identical to the similar information permitted or required to be displayed under these rules. (4-9-09)

02. Guest Participation in Interstate Common Pools. (4-9-09)

a. The Racing Commission may approve a takeout from the pari-mutuel pools identical to that of other jurisdictions participating in a merged pool. (4-9-09)

b. Rules, ~~of racing~~ either Live or Historic, as established ~~for the race~~ in the host state will apply to the merged pool. (4-9-09)()

c. The simulcast operator must designate which one of the following procedures it will use if it becomes impossible to successfully merge the corresponding pools into the interstate common pool, and must publish their designated procedure in the printed program: (4-9-09)

i. Compute payouts in accordance with payout prices that would have been in effect if prices for the pool of bets were calculated without regard to wagers placed elsewhere; or (4-9-09)

ii. With permission of the Racing Commission, pay winning tickets at the payout prices at the host track; or (4-9-09)

iii. Declare such accepted bets void and make refunds in accordance with the applicable rules. (4-9-09)

(BREAK IN CONTINUITY OF SECTIONS)

047. PARI-MUTUEL SYSTEM OF WAGERING REQUIRED FOR HISTORICAL RACING.

The only wagering permitted on a historical horse race shall be under the pari-mutuel system of wagering. All systems of wagering other than pari-mutuel shall be prohibited. Any person participating or attempting to participate in prohibited wagering shall be subject to prosecution.

()

048. TOTALIZATOR OR OTHER APPROVED EQUIPMENT REQUIRED.

Pari-mutuel wagering on live and historical horse races shall only be conducted through the use of a totalizator or other similar mechanical equipment approved by the Commission.

()

049. HISTORICAL HORSE RACE LICENSING.

01. No Historical Horse Race Wagering Conducted Without a License. Wagering on an historical horse race shall only be conducted by a licensee approved by the Commission.

()

02. Historical Horse Race Horse Breed. A licensee may conduct wagering on historical horse races of any horse breed regardless of the type of breed that primarily races in live meets, if any, conducted by the licensee.

()

03. Approved Days and Hours. A licensee may conduct wagering on historical races on any days and hours that is in conformity with local municipalities and approved by the Commission.

()

04. Cash or Cash Vouchers Only. Historical horse racing terminals shall use cash or cash vouchers only.

()

050. REQUIRED ELEMENTS OF HISTORICAL HORSE RACE WAGERING.

01. Approved Terminal. A patron may only wager on an historical horse race that is on a terminal approved by the Commission.

()

02. Terminal Chooses Race. Once a patron wagers an amount in the terminal offering wagering on an historical horse race, an historical horse race shall be chosen by the historical racing system.

()

03. Historical Races Are Unidentified. Prior to the patron making wager selections, the terminal shall not display any information that would allow the patron to identify the historical race on which the wager is being made. This includes:

()

a. The location of the race; ()

b. The date on which the race was run; ()

c. The names of the horses in the race; or ()

d. The names of the jockeys that rode the horses in the race. ()

04. Past Performance Information. True and accurate past performance information on the historical horse race shall be made available to the patron prior to making wager selections. The information shall be current as of the day the historical horse race was actually run. The information provided to the patron shall be displayed on the terminal in data or graphical form, or both. ()

05. Identity of Race Revealed After Wager Completion. After a patron finalizes the wager selections, the terminal shall display a video replay of the race, or a portion thereof, and the official results of the race. The identity of the race shall be revealed to the patron only after completion of the wager. ()

051. LOCATION OF HISTORICAL HORSE RACE TERMINALS AND ACCESS CONTROL.

01. Terminals Located Only at Idaho Live Simulcast Facilities. Terminals offering wagering on historical horse races may be located at facilities located in Idaho where Live Simulcasting is authorized and approved by the Commission and the County Commission where such facilities are located, pursuant to Sections 54-2512 (3)(4) and 54-2514A, Idaho Code.()

02. Terminals Located Only In Designated Areas. Terminals offering wagering on historical horse races shall be located within designated areas that have the prior written approval of the Commission. Designated areas shall be established in such a way as to control access by the general public and prevent entry by any person who is under eighteen (18) years of age or is otherwise not permitted to place wagers. ()

03. Minors Not Permitted In Designated Areas. Each licensee shall monitor persons entering and leaving the designated areas and shall prevent access to any person who is under eighteen (18) years of age or is otherwise not permitted to place wagers on historical horse races. ()

04. Notice To Minors Posted At Entrances. Every licensee shall keep a sign conspicuously posted over or near each entrance to any place where persons under eighteen (18) years are prohibited entry and herein restricted, giving public notice of such fact. ()

05. ADA Access. Access to the designated area shall comply with the Americans with Disabilities Act (ADA). ()

06. Contact Information In Designated Areas. Contact information for a recognized problem-gambling organization shall be made available to all patrons and posted in the designated areas. ()

052. -- 055. (RESERVED)

056. HISTORICAL HORSE RACE LICENSEE RECORD KEEPING.

01. Complete Records. Each licensee authorized to offer Live Simulcasting and Historical Horse Racing shall maintain complete paper or electronic records of all pari-mutuel wagering transactions on live and historical horse races, including the amounts wagered at each betting window, self-service totalizator, mobile pari-mutuel teller, and terminals. ()

02. Record Archive Period. A copy of the wagering records shall be retained and safeguarded for a period of not less than two (2) years and shall not be destroyed without the prior written permission of the Commission. ()

057. HISTORICAL HORSE RACE EQUIPMENT.

01. Equipment Approved By Commission. All pari-mutuel equipment utilized in the offering and transmitting of historical racing shall be approved by the Commission prior to accepting a wager. ()

02. Terminal Breakdown and Patron Refund. If there is a complete breakdown of a terminal offering wagering on an historical horse race, the licensee offering the wager shall make a full refund of the patron's balance on the terminal at the time of the breakdown, as verified by the historical racing system. ()

03. Proposed Designated Area Submitted To Commission. A detailed description of the proposed designated area and the placement of terminals on which the pari-mutuel wagers will be made shall be submitted to the Commission. This description shall include a drawing to scale of the proposed designated area that describes the size, construction, layout, capacity, number of terminals, and location of surveillance and other security equipment, and at least one (1) photograph of the designated area when construction is completed. The licensee shall also submit to the Commission the following: ()

a. The manufacturer, make, and model of the terminal, including a copy of all literature supplied by the manufacturer of the terminal; ()

b. The maintenance and repair procedures that will ensure the integrity of the terminals; and ()

c. A complete list of individuals who are authorized to examine and repair the terminals for any reason. ()

04. Commission May Require Terminal Testing. The commission may require testing of each terminal used for wagering on historical horse races by an independent testing company to ensure its integrity and proper working order. The independent testing company shall be chosen by the Commission. ()

05. Information Required for Display on Each Pari-Mutuel Wagering Pool. Each terminal for wagering on an historical horse race shall display odds or pool amounts that the patron will receive (i.e. "will pays") for a winning wager on each pari-mutuel wagering pool. ()

06. No Changes Or Modifications by Licensee Allowed. A licensee shall not implement any changes or modification to the practices, procedures, locations, or representations upon which the approval of the historical horse racing wagers was based without the prior written approval of the Commission. ()

04758. - 999. (RESERVED)

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

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

DOCKET NO. 11-0411-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Sections 54-2506, Idaho Code.

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

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the August 7, 2013 Idaho Administrative Bulletin, [Vol. 13-8, pages 116 and 117](#).

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

This rule does not create an impact on the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Teresa Baker, Idaho State Police, 208-884-7122.

DATED this 25th day of November, 2013.

Frank Lamb
Executive Director
Idaho Racing Commission
700 S Stratford Dr.
Meridian, ID 83642
Phone: 208-884-7082
Fax: 208-884-7098

**THE FOLLOWING NOTICE WAS PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rule is **July 1, 2013**.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-2506, 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 August 21, 2013.

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 rule will provide specific language to clarify whether horses with positive drug tests were ineligible to have raced. This rule will provide clarity and specify that when a horse is considered ineligible, the horse will be disqualified and purse money will be redistributed accordingly.

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

Providing this language of clarity will ensure the agency can take the standard enforcement action necessary to protect the bettor, the horses, and the integrity of the sport of horse racing.

FEE SUMMARY: No fees are imposed by this rule.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no negative impact on the state general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the 2013 Live Racing Season commenced before the rule could be negotiated.

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: No materials were incorporated by reference into this rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Frank Lamb, Racing Commission Executive Director, at 208-884-7080.

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 August 27, 2013.

DATED this 12th day of July, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-0411-1301

501. ILLEGAL PRACTICES BY TRAINER.

01. Disciplinary Sanctions. A trainer who is found to have committed illegal practices under the statutes or rules, or both, that govern live horse racing in Idaho shall be subject to disciplinary sanctions, which may be levied by a fine up to two thousand five hundred dollars (\$2,500), license suspension or license revocation. ()

02. Disqualification for Non-Permitted Substance. If a horse tests positive for any substance (medication, drug, chemical, narcotic, anesthetic, or analgesic) not specifically permitted by these rules by either a pre- or post-race laboratory test, that horse shall be deemed ineligible to have raced in the race and shall be disqualified retroactively to the start of the affected race. If such disqualification occurs, the horse's owner(s) shall, within five (5) calendar days, return the entire amount of the purse or sweepstakes or trophy that was awarded in the affected race and the same shall be redistributed. If the affected race is a qualifying race for a subsequent race and if a horse shall be disqualified, the eligibility of other horses that ran in the affected race and that have started in the subsequent race before announcement of such disqualification shall not in any way be affected. ()

50~~1~~2. -- 599. (RESERVED)

**IDAPA 15 - OFFICE OF THE GOVERNOR
MILITARY DIVISION - BUREAU OF HOMELAND SECURITY**

15.06.03 - PUBLIC SAFETY COMMUNICATIONS RULES

DOCKET NO. 15-0603-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 46-804, Idaho Code.

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

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the October 2, 2013 Idaho Administrative Bulletin, [Vol. 13-10, pages 137 through 142](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Col. Brad Richy, Director, Bureau of Homeland Security, at (208) 422-3001.

DATED this 24th day of October, 2013.

Col. Brad Richy
Director, Bureau of Homeland Security
Military Division
700 S. Stratford Dr., Bldg. 600
Meridian, ID 83642
Phone: (208) 422-3001
Fax: (208) 288-2605

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE 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 46-804, 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 October 16, 2013.

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:

These rules are being revised to address several inconsistencies and formatting problems. There is no change to the fees being charged. The rulemaking corrects citations, provides internal consistency in terminology, and eliminates redundant and unnecessary language.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

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(2), Idaho Code, negotiated rulemaking was not conducted because changes to this chapter of rules are housekeeping in nature.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Col. Brad Richy, Director, Bureau of Homeland Security, at (208) 422-3001, e-mail brichy@bhs.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2013.

DATED this 30th day of August 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 15-0603-1301

15.06.03 - PUBLIC SAFETY COMMUNICATIONS SYSTEMS INSTALLATION AND MAINTENANCE FEE RULES

000. LEGAL AUTHORITY (RULE 0).

This chapter is adopted under the authority of Section ~~39-7101~~ 46-804, Idaho Code.

~~(3-27-13)~~()

001. TITLE AND SCOPE (RULE 1).

01. Title. The title of this chapter is the IDAPA 15.~~1306.013~~, “Public Safety Communications Systems Installation and Maintenance Fee Rules.”

~~(3-27-13)~~()

02. Scope. ~~The scope of this chapter is creation of Public Safety Communications authorities and~~ These rules ~~pertaining to~~ establish fees for the installation and maintenance of public safety communications ~~services, fee structure for services, providing wireless interoperable communications, technical assistance and standards, microwave systems and high speed wireless bandwidth for state agencies’ use in interoperable and public safety communications amongst~~ systems for local, state, federal, and tribal ~~entities~~ agencies, emergency, and first responders.

~~(3-27-13)~~()

002. WRITTEN INTERPRETATIONS (RULE 2).

~~In accordance with Section 67-5747(a)(i)(ii)(iii)(iv), Idaho Code, the agency Public Safety Communications has been transferred from the Department of Administration to the Idaho Military Division; which now pertain~~ does not rely on any interpretative statements with regard to the interpretation of the rules of this chapter or to the documentation of compliance with the rules of this chapter. Included in these written statements is the charge of providing communications services to all state agencies except the executive office, state courts, and higher education. Pursuant to Section 67-5747(a)(i)(iii)(iv), Idaho Code.

~~(3-27-13)~~()

003. ~~ADOPTION OF ATTORNEY GENERAL'S IDAHO RULES OF PROCEDURE ADMINISTRATIVE APPEAL~~ (RULE 3).

~~IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General,” are adopted for all contested cases before the Military Division and all rulemaking by the Military~~

~~Division.~~ This chapter does not provide for administrative appeals. (3-27-13)()

004. ~~(RESERVED)~~ **INCORPORATION BY REFERENCE (RULE 4).**
No documents have been incorporated by reference into this chapter. ()

005. **OFFICE, OFFICE HOURS, MAILING ADDRESS, TELEPHONE AND FACSIMILE NUMBERS, AND WEBSITE ADDRESS (RULE 5).**

01. **Address.** The main office of the Idaho ~~Public Safety Communications-~~ **Military Division**, Bureau of Homeland Security, is located at 700 South Stratford Drive, Building 600, Meridian, Idaho 83642. (3-27-13)()

02. **Office Hours.** Office hours are weekdays, 8:00 a.m. to 4:30 p.m., excluding holidays. (3-27-13)

03. **Telephone.** The telephone number is (208) 288-4000. The twenty four (24) hour emergency notification number is (800) 632-8000 or (208) 846-7610. **The facsimile number is (208) 288-2605.** (3-27-13)()

04. **Website.** The website address is <http://www.bhs.idaho.gov/>. ()

006. ~~(RESERVED)~~ **PUBLIC RECORDS ACT COMPLIANCE (RULE 6).**
All records relative to this chapter are public records except to the extent such records are by law exempt from disclosure. ()

007. **COMMUNICATION WITH MILITARY DIVISION, BUREAU OF HOMELAND SECURITY (RULE 7).**

01. **Records Custodian.** The **Director of the** Military Division, Bureau of Homeland Security, is the custodian of all records and files **maintained** in ~~all formal proceedings under these rules and is responsible for service of all orders and notices~~ **connection with this chapter.** ~~Unless otherwise directed by order, the Director, Bureau of Homeland Security issues all official notices.~~ (3-27-13)()

02. **Filing.** All written communications and documents that are intended to be part of an official ~~Military Division~~ record ~~for a decision in a contested case or a rulemaking~~ **pertaining to this chapter** must be filed with the ~~Director~~ **records custodian.** ~~Unless otherwise provided by statute, these rules, order or notice, documents are considered filed when received by the Director, not when mailed.~~ (3-27-13)()

~~03. **Information.** Information concerning proceedings before the Military Division, or the status of any matter of public record is available from the Director, Bureau of Homeland Security.~~ (3-27-13)

008. -- 009. (RESERVED)

010. **DEFINITIONS (RULE 10).**

01. Public Safety Communications. ~~The Agency. Public Safety Communications (PSC) is a unit within Idaho Military transferred from the Department of Administration to the Idaho Military Division under House Bill 305. PSC is charged with “the acquisition and installation of all State public safety radio and microwave systems in support of state emergency communications and will be under the control of the Military Division”. This transfer was accomplished to enhance services and coordination for emergency operations and logistics through federal channels already in place within the Idaho Military Division.~~ (3-27-13)

~~02. Public Safety Communications.~~ The ability to transmit voice, video and data sent electronically ~~be~~ **by** means of radio, wireless, data, fiber, leased lines circuits, and digital transmission for emergency and first responders. ()

02. Public sSafety eCommunications sSystems. ~~is e~~Equipment ~~or systems~~ used in providing interoperable means of communications ~~amongst~~ **between** local, state, federal, and tribal agencies. These systems ~~and equipment~~ **are designed to** give emergency and first responders the ability to respond to normal and emergency situations ~~in carrying out each respective agencies duties~~ and ~~responsibilities.~~ ~~These public safety communications systems are used to carry out the normal operations~~ and emergency operations in the protection of life, property and civil authority. (3-27-13)()

03. Interoperable Communications. The ~~condition—achieved—among communications electronics systems or items of communications electronic equipment when information or services can be exchanged directly and satisfactorily between them and/or their users.~~ ~~Interoperability specifically refers to the~~ ability of emergency response officials to share information via voice and data signals on demand, in real time, when needed, and as authorized, **and may include one (1) or more forms of wireless communications and microwave systems.** (3-27-13)()

04. Wireless Communications. Is the ability to transfer information over ~~distant~~ **distance** utilizing electromagnetic waves through space as the medium to send voice, video, data, and information. Wireless communications for interoperability specifically refers to the ability of emergency response officials to share information via voice and data signals on demand, in real time, when needed, and as authorized. (3-27-13)()

a. Radio Systems. These wireless systems are typically known as Land Mobile Radio ~~or LMR.~~ Land Mobile Radio Systems are the main wireless communications systems deployed by public safety communications for emergency and first responders. (3-27-13)()

b. Data Systems. These wireless systems are used to transmit data at rates typically from 1.2 kilobit up to approximately 1 megabit. These systems are used to send data and text messaging utilized by emergency and first responders. (3-27-13)

c. Video Systems. These wireless systems are used to transmit video and closed circuit television (cctv) for use by emergency and first responders. These systems also carry full motion video for broadcast use such as Idaho Public Television. (3-27-13)

d. Broadband Systems. These wireless systems are used to transmit voice, video, and data information in multiple applications. These systems can either be point-to-point links or

point to multi-point systems deployed today by emergency and first responders. (3-27-13)

05. Microwave Systems. Equipment or apparatus that utilize electromagnetic wavelengths between 1 meter down to 1 millimeter with the equivalent operating frequency between 0.3 GHz and 300 GHz to transmit and receive information. These transmissions are sent on micro-wave links which is a communications system operating between 0.3 GHz – 300 GHz that use electromagnetic waves to send voice, video and data information over distances ranging from a few feet to several hundred miles. (3-27-13)

~~011. ABBREVIATIONS (RULE 11).~~

- ~~01. PSC. Public Safety Communications. (3-27-13)~~
- ~~02. BHS. Idaho Bureau of Homeland Security. (3-27-13)~~
- ~~03. LMR. Land Mobile Radio. (3-27-13)~~
- ~~04. I.P. Internet Protocol—(Ethernet based systems). (3-27-13)~~
- ~~05. GHz. Gigahertz (measured in cycles per second). (3-27-13)~~

~~0121. -- 099. (RESERVED)~~

100. FEES (RULE 100).

01. Fee Schedule for Services. ~~Public Safety Communications is a dedicated funded agency. It receives no direct funding from the state's general fund. The agency must therefore charge for the services that it provides to local, state, federal and tribal agencies, emergency and first responders. Public Safety Communication~~ The fees listed are minimum rates and can be adjusted annually, based on the **Consumer Price Index**, and or as contracts are negotiated or renewed, **without further rulemaking**. ~~These fees are used to maintain and operate the various communications systems that Public Safety Communications (the agency) is charged to maintain and provide.~~ (3-27-13)()

02. Fleet Communication Services. (3-27-13)

a. Fleet Vehicle Equipment Installation:

FLEET VEHICLE EQUIPMENT INSTALLATION		Minimum Charges
1.	Standard Enforcement Package	\$1,500
2.	Special, Unmarked, or Disguise Package	\$1,300
3.	Standard Vehicles – High Tier Radio	\$ 500
4.	Standard Vehicles – Low / Mid Tier Radio	\$ 325
5.	Standard Vehicles- Multi-Band	\$ 750

FLEET VEHICLE EQUIPMENT INSTALLATION		Minimum Charges
6.	Non-Standard Fleet Packages	Will bid on individual fleets as needs arise

(3-27-13)

b. Time and Materials Rate:

TIME AND MATERIALS RATE (Minimum 2-hour charge for any labor or travel costs)		\$45.00 / Hr
1.	Travel Time & Mileage	Per Board of Examiners
2.	Parts	Cost + Shipping + Processing

(3-27-13)

03. Emergency Communication Services.

(3-27-13)

a. Microwave Communication Services:

MICROWAVE COMMUNICATION SERVICES Leased Lines & Analog Circuit Rates		Month
1.	Radio Control Circuit	\$200
2.	DS1 Circuit (T-1)	\$300
3.	Ethernet Access Fee (Per Meg)	\$200

(3-27-13)

b. Building Space Rental - (Equipment operating from mountaintop communications site):

BUILDING SPACE RENTAL <i>Equipment Operating From Mountaintop Communications Site</i>		
1.	One customer provided Equipment rack, occupying no more than not to exceed 6 cubic feet of space	\$125/month

~~(3-27-13)~~ ()

d.c. Radio Communication Equipment Space Rental - (Equipment operating from mountain-top communications site):

RADIO COMMUNICATION EQUIPMENT SPACE RENTAL <i>Equipment Operating From Mountain-Top Communications Site</i>	
<p>One customer provided Radio equipment rack space, 1. not to exceed 72 x 19 inches equipment rack, (typically one radio transmitter per rack)</p>	<p>\$125/month per transmitter</p>

~~(3-27-13)~~()

ed. Radio Communication Services:

RADIO COMMUNICATION SERVICES Maintenance Fees for Agency-Owned Equipment		Monthly Rate / Unit
1.	Portables – Tier I (16 channel or less)	\$ 17.50
2.	Portables – Tier II (greater than 16 channels or groups)	\$ 36.50
3.	Mobile – Tier I (16 channel-non split mount)	\$ 25.50
4.	Mobile – Tier II (greater than 16 channel and/or remote mount)	\$ 37.50
5.	Mobile – Trunking (trunking radio with multiple groups / zones)	\$ 45.00
6.	Base Control – Local	\$ 60.00
7.	Base Control – Mountain Top (per transmitter)	\$ 95.00
8.	Repeater – Mountain Top (per transmitter)	\$ 95.00
9.	Console Desktop – Local	\$ 60.00
10	Console – Multi-Channel – Small System – Single Position	\$165.00
11.	Console – Multi-Channel – Large System – Per operator position (The multi-channel large system console is computed by multiplying the number of operator positions by the monthly rate/unit.)	\$250.00
12	Miscellaneous Equipment Maintenance	(Negotiated as determined)
13	User Site Management Fees	(Based on site fees, license, and administrative costs)
14	Other related systems or items	(Will be quoted as needed)

(3-27-13)

**IDAPA 15 - OFFICE OF THE GOVERNOR
MILITARY DIVISION - BUREAU OF HOMELAND SECURITY**

15.06.04 - RULES GOVERNING IDAHO YOUTH CHALLENGE PROGRAM

DOCKET NO. 15-0604-1301 (NEW CHAPTER)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 46-804 and 46-805, Idaho Code.

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

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the October 2, 2013 Idaho Administrative Bulletin, [Vol. 13-10, pages 143 through 145](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Brig. Gen. Richard G. Turner, Director of Joint Staff, at (208) 422-5471.

DATED this 24th day of October, 2013.

Brig. Gen. Richard G. Turner, Director of Joint Staff
Military Division
700 S. Stratford Dr., Bldg. 600
Meridian, ID 83642
Phone: (208) 422-5471
Fax: (208) 422-6179

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE 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 46-804 and 46-805, 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 October 16, 2013.

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 is a new title and chapter of rules that aid in the establishment and facilitation of the Idaho Youth Challenge Program. These rules define the student acceptance criteria for the Idaho Youth Challenge Program. They establish: a process for administering the criteria fairly to all potential students wishing to enroll; the Idaho Youth Challenge Board of Admissions, outline the duties therein, and list out those persons selected to serve on that Board; the Idaho Youth Challenge funding and accounting processes; the Idaho Youth Challenge Governing Board; and the Idaho Youth Challenge Board of Trustees.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

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(2), Idaho Code, negotiated rulemaking was not conducted because the Idaho Youth Challenge Program provides a benefit to students who may be eligible for enrollment into the program. Furthermore, these rules are specifically authorized by Section 46-805, Idaho Code.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Brig. Gen. Richard G. Turner, Director of Joint Staff, at (208) 422-5471.

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 23, 2013.

DATED this 30th day of August, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 15-0604-1301

IDAPA 15
TITLE 06
CHAPTER 04

MILITARY DIVISION - BUREAU OF HOMELAND SECURITY

15.06.04 - RULES GOVERNING THE IDAHO YOUTH CHALLENGE PROGRAM

000. LEGAL AUTHORITY.

This chapter is adopted under the authority of Sections 46-804 and 46-805, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is the IDAPA 15.06.04, “Rules Governing the Idaho Youth Challenge Program.” ()

02. Scope. These rules establish the criteria for student enrollment in the Idaho Youth Challenge Program. ()

002. WRITTEN INTERPRETATIONS.

The Idaho Military Division does not rely on any interpretative statements with regard to this chapter. ()

003. ADMINISTRATIVE APPEALS.

This chapter does not provide for administrative appeals. ()

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference into this chapter. ()

005. OFFICE ADDRESS, OFFICE HOURS, TELEPHONE AND FACSIMILE NUMBERS, AND WEBSITE ADDRESS.

01. Address. The main office of the Idaho Military Division is located at 4040 West Guard Street, Gowen Field, Building 600, Boise, Idaho 83705. ()

02. Office Hours. Office hours are weekdays, 8:00 a.m. to 4:30 p.m., excluding holidays. ()

03. Telephone. The telephone number is (208) 422-3000. The facsimile number is (208) 422-3040. ()

04. Website. The website address is <http://www.idaho.ang.af.mil>. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

All records relative to this chapter are public records except to the extent such records are by law exempt from disclosure. ()

007. -- 009. (RESERVED)

010. DEFINITIONS.

01. Participant. A participant is a person who meets all of the participant selection criteria for the Youth Challenge Program and is selected to participate in the Program from among the eligible applicants. ()

02. Program. The National Guard Youth Challenge Program is a community-based program that leads, trains and mentors at-risk youth so that they may become productive citizens in America's future. ()

011. -- 099. (RESERVED)

100. PARTICIPANT SELECTION CRITERIA.

01. Age. A Participant must be between the ages of sixteen (16) to eighteen (18) years of age at the time of entry into the Program. ()

02. Residency. A Participant must be a citizen or legal resident of the United States and resident of the state of Idaho. ()

03. Physical and Mental Requirements. ()

a. A Participant must be physically and mentally capable to participate in the Program in which enrolled with reasonable accommodation for physical and other disabilities. ()

b. Selected Participants shall receive a physical examination in conjunction with their entry into the Program. Such examination shall be sufficiently complete so that a conclusion may be reached as to the Participant's ability to complete the program with reasonable accommodation for physical and other disabilities. The examination may also include testing for drug or substance

abuse and pregnancy insofar as directed by Department of Defense instructions and insofar as such testing does not conflict with state law. ()

04. Additional Requirements. In addition to the above requirements, a Participant must meet the following criteria to be eligible for the Program. ()

a. A Participant must be a high school dropout. A high school dropout is defined as an individual who is no longer attending any school and who has not received a secondary school diploma or certificate from a program of equivalency for such diploma. ()

b. A Participant must be unemployed or underemployed at the time an application is submitted. ()

c. A Participant must not currently be on parole or probation for anything other than juvenile status offenses. ()

d. A Participant must not be serving time or awaiting sentencing. ()

e. A Participant must not be under indictment, charged with or convicted of a crime that is considered a felony when charged as an adult. ()

f. A Participant must be free from use of illegal drugs or substances and free from the illegal use of drugs or substances. ()

101. GOVERNING BOARD.

The Governing Board shall consist of the Adjutant General, the Director of the Youth Challenge Program, and three (3) at large members appointed by the Adjutant General. Each member of the Governing Board shall serve at the pleasure of the Adjutant General. ()

102. BOARD OF ADMISSIONS.

The Board of Admissions shall consist of the Director of the Youth Challenge Program, the Deputy Director of the Youth Challenge Program, the Youth Challenge Academy Principle, the Youth Challenge Academy Commandant, the Youth Challenge Medical Liaison, the Youth Challenge Program Coordinator, and one (1) at large member appointed by the Adjutant General. Each member of the Governing Board shall serve at the pleasure of the Adjutant General. ()

103. -- 999. (RESERVED)

**IDAPA 15 - OFFICE OF THE GOVERNOR
MILITARY DIVISION - BUREAU OF HOMELAND SECURITY**

15.13.01 - RULES OF THE IDAHO EMERGENCY RESPONSE COMMISSION

DOCKET NO. 15-1301-1301 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 39-7104 and 46-804, Idaho Code.

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

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2013 Idaho Administrative Bulletin, [Vol. 13-10, page 147](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Col. Brad Richy, Director, Bureau of Homeland Security, at (208) 422-3001.

DATED this 24th day of October, 2013.

Col. Brad Richy
Director, Bureau of Homeland Security
Military Division
700 S. Stratford Dr., Bldg. 600
Meridian, ID 83642
Phone: (208) 422-3001
Fax: (208) 288-2605

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE 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 39-7104 and 46-804, 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 October 16, 2013.

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

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

The Military Division, through the Bureau of Homeland Security, is now responsible for implementing the provisions of the Hazardous Substances Emergency Response Act after the Idaho Emergency Response Commission was abolished. The Military Division is now repealing the rule previously codified under IDAPA 15.13.01, "Rules of the Idaho Emergency Response Commission."

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

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(2), Idaho Code, negotiated rulemaking was not conducted because the Military Division wishes to repeal the rules presently found in IDAPA 15.13.01, "Rules of the Idaho Emergency Response Commission," because there is no longer an Emergency Response Commission.

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 Col. Brad Richy, Director, Bureau of Homeland Security, at (208) 422-3001, e-mail brichy@bhs.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2013.

DATED this 30th day of August 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 15-1301-1301

IDAPA 15.13.01 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION

31.01.01 - RULES OF PROCEDURE OF THE IDAHO PUBLIC UTILITIES COMMISSION

DOCKET NO. 31-0101-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Public Utilities Commission and is now pending review by the 2014 Idaho State Legislature for final approval. As provided for in Section 67-5224(5)(a), the pending rule becomes final and effective on February 15, 2014, and will be applied retroactively upon the conclusion of the 2014 legislative session upon approval of the pending rule. Pursuant to Section 67-5224(5)(b), Idaho Code, if the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Public Utilities Commission has adopted a pending rule. The action is authorized pursuant to Sections 61-401, 61-405, 61-601, 62-615, and 62-619, Idaho Code.

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

The Commission received no comments regarding the proposed rule. The pending rule is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2013 Idaho Administrative Bulletin, [Vol. 13-10, pages 392 through 400](#).

FISCAL IMPACT: There is no fiscal impact on the State General Fund in excess of ten thousand dollars (\$10,000) during the fiscal year.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

DATED this 1st day of November, 2013.

Jean D. Jewell
Commission Secretary
Idaho Public Utilities Commission
472 W. Washington Street (83702-5918)
PO Box 83720
Boise, ID 83720-0074
Tele: (208) 334-0338
FAX: (208) 334-3762

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Idaho Public Utilities Commission has initiated proposed rulemaking procedures. This action is authorized pursuant to Sections 61-601, 62-615, and 62-619, 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 October 16, 2013.

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 Commission's address below.

DESCRIPTIVE SUMMARY: The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

The Public Utilities Commission is proposing to update its Rules of Procedure, IDAPA 31.01.01. The reasons for the proposed changes include: improving efficiency and cost-effectiveness by allowing the Commission to update its list of current utilities and railroads subject to the annual regulatory assessments (Rule 18); updating references and citations to other authorities (Rules 19, 43, 52); conforming rules to current practices (Rules 53, 72, 162); increasing public involvement by making RSS feeds more user-friendly (Rule 39); recognizing utilities formed as limited liability companies (Rules 111 and 114); and improving the clarity of two rules regarding customer notices (Rules 121 and 125). The proposed amendments to the rules reflect the Commission's adoption of changes agreed to at the negotiated rulemaking.

FEE SUMMARY: There are no fees associated with this proposed rulemaking.

FISCAL IMPACT: There is no fiscal impact on the state general fund resulting from this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules -- Negotiated Rulemaking was published in the August 7, 2013 Idaho Administrative Bulletin, Vol. 13-8, pages 294-95.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule and how an electronic copy can be obtained:

Existing Rule 43 (31.01.01.043) incorporates by reference Idaho Bar Commission Rule 227 (Pro Hac Vice Admission). Bar Rule 227 is promulgated by the Idaho State Bar and adopted by Order of the Idaho Supreme Court. Bar Rule 227 may be obtained from the Idaho State Bar, P.O. Box 895, Boise, Idaho 83701 or on-line at www.isb.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the Commission Secretary and must be delivered on or before October 23, 2013.

Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED this 28th day of August, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 31-0101-1301

018. **PAYMENT OF FEES AND REMITTANCES (RULE 18).**

01. Payments. Fees and remittances to the Commission must be paid by money order, bank draft or check payable to “Idaho Public Utilities Commission.” Remittances in currency or coin are wholly at the risk of the remitter, and the Commission assumes no responsibility for their loss. (7-1-93)()

02. Annual Regulatory Fees. Utilities and railroads shall pay their annual special regulatory fees as required by Chapter 10, Title 61 and Section 62-611, Idaho Code. Utilities and railroads that fail to pay their special regulatory fees, are no longer conducting business in Idaho, and fail to maintain a designated agent for service with the Commission Secretary (Subsection 016.03) may be administratively removed from the list of utilities and railroads subject to the annual regulatory fee. ()

019. **INCORPORATED BY REFERENCE -- IDAHO BAR COMMISSION RULE (RULE 19).**

Rule 43 incorporates by reference Idaho Bar Commission Rule 227 (~~Limited Admission~~ Pro Hac Vice Admission). Bar Rule 227 is promulgated by the Idaho State Bar and adopted by order of the Idaho Supreme Court. Bar Rule 227 may be obtained from the Idaho State Bar, PO Box 895, Boise, ID 83701, or online at <http://www.isb.idaho.gov>. Bar Rule 227 is also available for inspection and copying at the Idaho State Law Library or at the offices of the Idaho Public Utilities Commission. (4-7-11)()

(BREAK IN CONTINUITY OF SECTIONS)

039. PERSONS -- PERSONS NOT PARTIES -- INTERESTED PERSONS (RULE 39).

01. Persons and Person Not Parties. The term “person” includes natural persons, partnerships, corporations, associations, municipalities, government entities and subdivisions, and any other entity authorized by law to participate in administrative proceedings. Persons other than the persons named in Rules 32 through 37 are not parties for the purpose of any statute or rule addressing rights or obligations of parties. ()

02. Interested Persons. Interested persons for purposes of the Commission Secretary’s service of notice under Rules 113, 123, and 202 are municipalities, counties, and chambers of commerce in the area affected by a proceeding and persons who were parties in any proceeding of a similar kind involving the same utility or ~~regulated carrier~~ railroad in the preceding three (3) years. This rule defines interested persons for purposes of Rules 113, 123, and 202, but not for purposes of Section 61-626, Idaho Code. (4-5-00)()

03. Public Involvement. Persons interested in receiving periodic updates about filings made in certain groups of cases, in individual cases, or the issuance of press releases, orders and notices may subscribe to the Commission’s Rich Site Summary (RSS) feed located on the Commission’s home page at: www.puc.idaho.gov. Subscription to general information will be available at the home page at “Keep Me Updated” and case specific subscription will be available at each case summary page. The Commission’s home page also contains links to other utility or Commission topics. ()

(BREAK IN CONTINUITY OF SECTIONS)

043. REPRESENTATION OF PARTIES (RULE 43).

Proceedings before the Commission are sometimes administrative in nature or quasi-judicial in nature. General requirements for the representation of parties are outlined below. (4-7-11)()

01. Administrative Proceedings. Administrative proceedings before the Commission include matters such as the filing of tariff schedules, tariff advices, price lists, certificates to provide local exchange service, interconnection agreements, rulemaking, written comments in modified procedure, or written comments provided at a customer hearing. These filings may be made by a natural person pro se, a partner in a partnership, an employee or officer of a corporation, or a licensed attorney. (4-7-11)

02. Quasi-Judicial Proceedings. The representation of parties at quasi-judicial proceedings for the purpose of adjudicating the legal rights or duties of a party is restricted as set out below. Quasi-judicial proceedings before the Commission include matters such as formal complaints, petitions, motions, applications for modified procedure or technical/evidentiary hearings. Representation of parties of these types of proceedings shall be as follows: (4-7-11)

- a.** A natural person may represent himself or herself or be represented by a licensed attorney. (4-7-11)
- b.** A partnership or corporation shall be represented by a licensed attorney. (4-7-11)
- c.** A municipal corporation; a state, federal, tribal, or local government agency; an unincorporated association; a non-profit organization, or other entity shall be represented by a licensed attorney. (4-7-11)

03. Attorney Representation. Only an active member of the Idaho State Bar may represent a party as an attorney except as provided by Idaho Bar Commission Rule 227 (~~Limited Admission~~ Pro Hac Vice **Admission**). The Commission adopts by incorporation Bar Rule 227 as modified below. (4-7-11)()

a. Limited admission by out-of-state attorneys will not be necessary in conjunction with administrative proceedings. Out-of-state attorneys representing the same party in one (1) or more quasi-judicial proceedings must request limited admission at least one (1) time per calendar year. (4-7-11)

b. An attorney applying for limited admission to appear before the Commission in a representative capacity shall file a written motion with the Commission Secretary and serve a copy on all parties. The motion shall be substantially in the form set out in Bar Rule 227(~~f~~) with references to the Commission instead of the court. (4-7-11)()

c. A copy of the written motion shall be submitted to the Idaho State Bar accompanied by the fee prescribed in Bar Rule 227(~~f~~). (4-7-11)()

(BREAK IN CONTINUITY OF SECTIONS)

052. APPLICATIONS -- DEFINED -- FORM AND CONTENTS (RULE 52).

All pleadings requesting a right, certificate, permit, or authority from the Commission ~~or the award of intervenor funding~~ are called “applications.” Applications must: (4-5-00)()

- 01. State Facts.** Fully state the facts upon which they are based, (7-1-93)
- 02. Refer to Provisions.** Refer to the particular provisions of statute, rule, order, or other controlling law upon which they are based, and (7-1-93)
- 03. Pray for the Action Sought.** Request the action desired. (3-16-04)
- 04. Public Information.** Unless otherwise exempted from disclosure by statute, information in applications is public information not exempt from disclosure under Section 9-340C(9), Idaho Code. (3-16-04)

053. PETITIONS -- DEFINED -- FORM AND CONTENTS (RULE 53).

- All pleadings requesting: (7-1-93)
- 01. Modification, Amendment or Stay of Existing Orders or Rules.** (7-1-93)
 - 02. Clarification or Construction of Orders, Rules or Statute.** (7-1-93)
 - 03. Initiation of Proceeding.** The initiation of a proceeding not an application or a proceeding that will lead to the issuance of an order. (7-1-93)
 - 04. ~~Rehearing~~ Reconsideration.** (~~7-1-93~~)()
 - 05. Request for Intervenor Funding.** ()
 - 056. Intervention are Called "Petitions."** ~~Petitions must:~~ (~~7-1-93~~)()
 - 07. Form and Content. Petitions must:** ()
 - a.** Fully state the facts upon which they are based, (7-1-93)
 - b.** Refer to the particular provisions of statute, rule, order or other controlling law upon which they are based, (7-1-93)
 - c.** Pray for the relief desired, and (7-1-93)
 - d.** State the name of the person petitioned against (the respondent), if any. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

072. FORM AND CONTENTS OF PETITIONS TO INTERVENE (RULE 72).

Petitions to intervene must comply with Rules 41, 61, and 62. The petition must set forth the name and address of the petitioner and clearly and concisely state the direct and substantial interest of the petitioner in the proceeding. If affirmative relief is sought, the petition must state the relief sought and the basis for granting it. ~~Applications~~ **Petitions** for intervenor funding should be made in a separate document from the petition to intervene. (~~4-5-00~~)()

(BREAK IN CONTINUITY OF SECTIONS)

111. FORM AND CONTENTS -- NEW UTILITY (RULE 111).

Applicants for the issuance of a certificate of convenience and necessity for a new utility under Section 61-526, Idaho Code, or Commission order, must submit the data required by this rule (where relevant) with their applications. (4-5-00)

- 01. Name, Address and Form of Business.** (7-1-93)
- a.** If the applicant is a sole proprietor: (7-1-93)
- i. The name, business address, and electronic address (if available) of the applicant; and (4-5-00)
- ii. The business name (including “doing business as” (dba)) of the sole proprietorship. (3-16-04)
- b.** If the applicant is a partnership: (7-1-93)
- i. A list of the names, business addresses, and electronic addresses (if available) of all the partners; and (4-5-00)
- ii. The business name (including dba) of the partnership. (3-16-04)
- c.** If the applicant is a corporation or limited liability company (LLC):~~(7-1-93)~~()
- i. A short statement of the character of public service in which it may engage; (7-1-93)
- ii. The name of the ~~corporation~~ entity (including dba) and the state in which it is incorporated or organized; ~~(3-16-04)~~()
- iii. Its principal business address, its principal business address within Idaho, and electronic address (if available); (4-5-00)
- iv. A certified copy of its articles of incorporation or its certificate of organization if an LLC; and ~~(7-1-93)~~()
- v. If not incorporated or organized in Idaho, a certificate of authority from the Idaho Secretary of State, a certificate of good standing issued by the ~~S~~secretary of ~~S~~state of ~~Idaho~~ the state in which it is incorporated or organized, and the name and address of its registered agent for service in Idaho. ~~(3-16-04)~~()
- 02. Written Explanation Why Service Is Proposed.** A statement or prepared testimony and exhibits explaining why the proposed utility service is or will be in the public convenience and necessity. (7-1-93)
- 03. Proposed Operations.** A full description of the proposed location, route or routes of the utility service, including a description of the manner of construction, and the names of all public utilities, corporations, or persons with whom the proposed new utility is likely to compete. (7-1-93)
- 04. Maps.** A map of suitable scale showing the location of the utility service and its relation to other public utilities in the area that offer or provide similar utility service. (7-1-93)

05. Financing of Construction. A statement of the manner in which the applicant proposes to finance new utility service construction, the time when the applicant proposes to begin construction and the time when the applicant proposes to begin service. (7-1-93)

06. Cost of Service. Estimates of the cost of extending to and the annual cost of serving the territory for which the certificate is sought, of the number of service connections already made or to be made, of the annual revenue from them or expected annual revenue from them, and of anticipated rates and charges. (7-1-93)

07. Financial Statement. A financial statement of the applicant. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

114. APPLICATION FOR NEW COMPETITIVE LOCAL EXCHANGE CARRIER (CLEC) – FORM AND CONTENT (RULE 114).

The Commission issues Certificates of Public Convenience and Necessity to competitive local exchange carriers (CLECs) seeking to provide local exchange services in Idaho. The Commission uses the certification process to register and review applications to provide local telecommunications services. See Commission Order No. 26665 issued November 7, 1996. Each CLEC application shall include the following information: (5-8-09)

01. Name, Address and Form of Business. (5-8-09)

a. If the applicant is the sole proprietor, provide the name and business address of the applicant and the business name of the sole proprietorship. (5-8-09)

b. If the applicant is a partnership, provide a list of the names and business addresses of all the partners, and the business name of the partnership. (5-8-09)

c. If the applicant is a corporation or limited liability company (LLC), along with the entity's name (and dba, if any), provide, if applicable: ~~(5-8-09)~~()

i. A short statement of the character of public service in which it is engaged; (5-8-09)

ii. The name of the entity (including dba, if any) and the state in which it is incorporated or organized; ~~(5-8-09)~~()

iii. Its principal business address and its principal address within Idaho; (5-8-09)

iv. A certified copy of its articles of incorporation or its certificate of organization if an LLC; ~~(5-8-09)~~()

v. The names and addresses of the officers and directors of applicant; (5-8-09)

vi. The names and addresses of subsidiaries owned or controlled by applicant; (5-8-09)

vii. If not incorporated **or organized** in Idaho, **a certificate of authority from the Idaho Secretary of State**, a certificate of good standing issued by the **applicable** secretary of state **in the state it is incorporated or organized**, and the name and address of **its** registered agent for service in Idaho; and ~~(5-8-09)~~()

02. Services and Territory. The application shall include: (5-8-09)

a. A written description of customer classes and customer services that the applicant proposes to offer to the public. The application shall indicate the date on which the applicant proposes to begin construction or anticipates it will begin to provide service in Idaho. (5-8-09)

b. A description sufficient for determining whether service is to be offered in a particular location and the names of incumbent local exchange corporations (ILECs) with whom the proposed utility is likely to compete. The application shall include a description of the intended manner of service, e.g., resold services or facilities-based services; and a general description of the property owned or controlled by applicant. (5-8-09)

c. A map of reasonable size and detail showing where the applicant is proposing to provide service including exchanges (if different from existing exchanges), rural zones, and local calling areas. If the service area is identical to an incumbent LEC's service area, then applicant may refer to the incumbent's service area. (5-8-09)

03. Financial Information. (5-8-09)

a. The application shall provide the current detailed balance sheets, including a detailed income and profit and loss statements of applicant reflecting current and prior year balance for the twelve (12) months ending as of the date of the balance sheet, or if not readily available, for the period since the close of the preceding calendar year. If a balance sheet and income statement are not available, the applicant shall submit financial data sufficient to establish it possesses adequate financial resources to provide the proposed services. (5-8-09)

b. The application shall include the latest annual report, if any. (5-8-09)

04. Tariffs and Price Lists. The application shall include proposed initial tariffs or price sheets setting forth rates, rules, terms, and regulations applicable to the contemplated service. Initial tariffs and price lists filings shall be in an electronic form as well as paper. The tariffs and price lists in electronic format will be in computer searchable Adobe Acrobat (PDF), or submitted on a CD-ROM or other format as prescribed by the Commission Secretary. (5-8-09)

05. Tariff and Customer Contact. The application shall include the name, address, and telephone number for those persons responsible for tariff and price list questions, as well as customer complaints and inquiries. The application shall state the toll-free telephone number for customer inquiries and complaints. (5-8-09)

06. Interconnection Agreements. The application shall state whether the applicant

has initiated interconnection negotiations and, if so, when and with whom. Include copies of any interconnection contracts which have been completed for the provision of telecommunication services. (5-8-09)

07. Compliance with Commission Rules. The application shall contain a written statement that the applicant has reviewed all of the Commission's rules and agrees to comply with them, or include a request for waiver of those rules believed to be inapplicable. (5-8-09)

08. Conservation of Telephone Numbers. The application shall contain a written statement acknowledging that non-paging telecommunications carriers with telephone numbering resources in Idaho shall be subject to numbering conservation measures including mandatory one thousand (1,000) block pooling. See Commission Order No. 30425. All CLECs shall evaluate their numbering resources and donate to the numbering resource pool unused one thousand (1,000) number blocks and one thousand (1,000) number blocks that have fewer than ten percent (10%) of the telephone numbers assigned. Applicable carriers shall also file the necessary utilization reports with NeuStar and semi-annual report their number resource utilization/forecast (NRUF) data at the one thousand (1,000) block level for each rate center within their service territory. The Federal Communications Commission has appointed NeuStar to manage the assignment and conservation of telephone area codes and telephone numbers in North America. (5-8-09)

115. -- 120. (RESERVED)

Applications to Change Rates or Rules
RULES 121 THROUGH 130

121. FORM AND CONTENTS OF APPLICATION TO CHANGE RATES (RULE 121).

01. Utility Applications to Change Rates. Applications by any public utility subject to Title 61, Idaho Code, to increase, decrease or change any rate, fare, toll, rental or charge or any classification, contract, practice, rule or regulation resulting in any such increase, decrease or change must include the following data: (4-7-11)

a. An exhibit showing in full each proposed change in rates, tolls, rentals, charges, rules or regulation by striking over proposed deletions to existing tariffs and underlining proposed additions or amendments to existing tariffs, except applications to increase or decrease all or almost all rates and charges by a uniform percentage or by a uniform amount may be made by filing a tariff listing the proposed change and all unchanged rates and charges or rates and charges not changed by a uniform percentage or a uniform amount, or by use of another designation previously approved by the Commission that clearly calls attention to all proposed changes in numbers or wording. (7-1-93)

b. If the application is subject to Rule 122, a complete justification of the proposed increase in the form of testimony and exhibits or a narrative exposition. (7-1-93)

c. If the application is subject to Rule 122, a statement showing how **and when** the application has been **or will be** brought to the attention of affected customers and a copy of the press release and customer notice required by Rule 125. ~~(4-7-11)~~()

- d.** A statement that the applicant stands ready for immediate consideration of the application. (7-1-93)
- e.** If the application is subject to Rule 122, testimony and exhibits showing financial statements, cost of capital and appropriate cost of service studies. (7-1-93)
- f.** Workpapers or documentation showing how test year data were adjusted. (7-1-93)
- g.** If the applicant provides utility service in states other than Idaho or utility service subject to federal regulation, a jurisdictional separation of all investments, revenues and expenses allocated or assigned in whole or in part to Idaho intrastate utility business regulated by this Commission showing allocations or assignments to Idaho. (7-1-93)

02. Proposals Based upon Computer Modeling. In addition, in any application in which a computer model is used to represent or simulate processes from which the revenue requirement is derived or upon which allocations of the revenue requirement to different customer classes are based, complete documentation of all those computer models must be supplied to the Staff, upon request, and be available in the utility's office or other depository. The Staff may request that the computer model itself be provided. A computer model includes the representation or simulation of a process, but does not mean or include the compilation of actual data. The application must state that the documentation of the models already on file in the applicant's office or other depository fully describes the models or that necessary updates or additions to previous documentation that will fully describe the models is on file and will be supplied on request. (4-5-00)

03. Grounds for Returning or Dismissing Application. Failure to comply with Rule 121.01 and 121.02 of this rule is grounds to return or dismiss an application under Rule 65. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

125. NOTICES TO CUSTOMERS OF PROPOSED CHANGES IN RATES (RULE 125).

01. Customer Notice of a Change in Rates. (4-7-11)

a. If a utility is requesting a rate increase, the utility shall issue a customer notice to each customer. The customer notice shall include a brief explanation of the utility's need for additional revenue and the dollar amount requested. The notice shall give the proposed overall percentage change from current rates as well as the proposed percentage increase in revenue for each major customer class. (4-7-11)

b. If the utility is requesting a rate decrease, the utility shall issue a customer notice to each customer. The customer notice shall include a brief explanation of the reason for the decrease, the overall dollar amount of the proposed decrease, and the proposed percentage

decrease for each major customer class. (4-7-11)

c. The customer notice shall make it clear that the application is a proposal, subject to public review and a Commission decision. It shall also inform customers that a copy of the utility's application is available for public review at the offices of both the Commission and the utility, and on the Commission's homepage [at www.puc.idaho.gov](http://www.puc.idaho.gov). ~~(4-7-11)~~()

d. ~~The customer notice shall inform customers that written comments regarding the utility's application may be filed with the Commission. It shall also inform customers that they may subscribe to the Commission's RSS feed (Subsection 039.03) to receive periodic updates via e-mail about the case.~~ ()

02. Timing of Notice for Trackers or Annual Cost Adjustments. Tracker adjustments occasioned by federal action that result in an increase or decrease in rates may be brought to the attention of customers in compliance with this rule after approval by the Commission. Other tracker or annual cost adjustment cases that result in an increase in rates remain subject to the requirements of advance notice contained in this rule. Other tracker or annual cost adjustment cases that result in a decrease in rates may be brought to the attention of customers in compliance with this rule after being approved by the Commission. (4-7-11)

03. Timely Distribution of Customer Notices. The customer notices referred to in Subsection 125.01 may be mailed ~~separately~~ to customers ~~or included in the customer's regular bill as a bill staffers over the course of a billing cycle or may be contained in additional comment pages to the customer's monthly bill.~~ ~~At the customer's option, the customer notice may be provided electronically. If additional comment pages are used, t~~The information required by this rule is to be clearly identified, easily understood, and pertain only to the proposed rate change. ~~Distribution of customer notices shall commence when the utility files its application or as soon as possible thereafter.~~ ~~(5-8-09)~~()

04. Press Release. In instances covered by Subsection 125.01, the utility shall also send a press release containing, at minimum, the same information presented in the customer notices to all newspapers, radio, and television stations listed on the Commission's news organization list for that utility. The press releases shall be mailed or delivered simultaneously with filing of the application. (5-8-09)

05. Filing of a Press Release and Customer Notice. A copy of the press release and customer notice shall be filed with the application. (5-8-09)

06. Purposes and Effects of This Rule. The purposes of Subsections 125.01 through 125.05 of this rule are to encourage wide dissemination to customers of information concerning proposed rate changes for utility services. It is not a purpose of these subsections to create due process or other procedural rights in customers by expanding, contracting, or otherwise modifying the notice and due process rights of customers under the Public Utilities Law and the Commission's Rules of Procedure, IDAPA 31.01.01. Accordingly, Subsections 125.01 through 125.05 of this rule create no individual procedural rights in any customer for notice that would give rise to a due process or other procedural claim cognizable by the Commission, but failure to comply with Subsections 125.01 through 125.05 of this rule can be grounds for returning an application for incompleteness. (5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

162. FORM AND CONTENTS OF PETITION FOR INTERVENOR FUNDING (RULE 162).

An ~~application~~ petition for intervenor funding must contain the following: ~~(7-1-93)~~()

01. Itemized List of Expenses. An itemized list of expenses that the intervenor requests to recover broken down into categories such as legal fees, witness fees, or reproduction fees. Legal and witness fees shall, where applicable, indicate hourly rates. (4-5-00)

02. Statement of Proposed Findings. A statement of the intervenor's proposed finding or recommendation that the intervenor wishes the Commission to adopt. (7-1-93)

03. Statement Showing Costs. A statement showing that the costs that the intervenor proposes to recover are reasonable in amount. (7-1-93)

04. Explanation of Cost Statement. A statement explaining why the costs described in Rule 162.01 constitute a significant financial hardship for the intervenor. (4-5-00)

05. Statement of Difference. A statement showing how the intervenor's proposed finding or recommendation in the case differs materially from the testimony and exhibits of the Commission Staff. (4-5-00)

06. Statement of Recommendation. A statement showing how the intervenor's recommendation or position addressed issues of concern to the general body of utility users or consumers, and (7-1-93)

07. Statement Showing Class of Customer. A statement showing the class of customer on whose behalf the intervenor appeared. (7-1-93)

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION
31.71.03 - RAILROAD SAFETY AND ACCIDENT REPORTING RULES
DOCKET NO. 31-7103-1301
NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Public Utilities Commission and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Public Utilities Commission has adopted a pending rule. The action is authorized pursuant to Section 61-515, Idaho Code.

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

The Commission received no comments regarding the proposed rule. The pending rule is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2013 Idaho Administrative Bulletin, [Vol. 13-10, pages 401 and 402](#).

FISCAL IMPACT: There is no fiscal impact on the state general fund resulting from this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

DATED this 1st day of November, 2013.

Jean D. Jewell
Commission Secretary
Idaho Public Utilities Commission
472 W. Washington Street (83702-5918)
Boise, ID 83720-0074
Telephone: (208) 334-0338
Facsimile: (208) 334-3762

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Idaho Public Utilities Commission has initiated proposed rulemaking procedures. This action is authorized pursuant to Section 61-515, 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 October 16, 2013.

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 Commission's address below.

DESCRIPTIVE SUMMARY: The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

The Commission's Railroad Safety and Accident Reporting Rules 103 and 104 adopt by reference the federal safety regulations pertaining to the transportation of hazardous materials by railroads issued by the federal Pipeline and Hazardous Material Safety Administration (PHMSA). The current Railroad Safety Rule 103 adopts the 2011 edition of the Code of Federal Regulations (CFR) and current Rule 104 adopts the 2010 edition of the CFR. The Commission proposes to adopt the 2013 edition of the CFR for both Rules 103 and 104. Since these two rules were last updated, PHMSA amended 49 C.F.R. Parts 171 and 172 revising procedures to allow electronic shipping papers and adding emergency contact phone numbers to the shipping papers. It also amended Parts 173, 174, 179, and 180 regarding the loading and marking of railroad tank cars carrying hazardous materials. 77 Fed.Reg. 37962-01 (June 25, 2012).

FEE SUMMARY: There are no fees associated with this proposed rulemaking.

FISCAL IMPACT: There is no fiscal impact on the state general fund resulting from this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because these proposed rules adopt mandatory federal safety regulations for the safe transportation of hazardous materials by rail. The federal safety regulations are already applicable to railroads and rail shippers.

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

The revisions to be adopted in the 2013 edition of the federal hazardous material safety regulations are explained in detail in the descriptive summary above. Adoption of the 2013 federal safety regulations will provide uniformity between state and federal rail safety provisions.

An electronic link to the incorporated material is contained in the Commission's railroad safety rule 31.71.03.008 and at www.gpoaccess.gov/cfr.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the Commission Secretary and must be delivered on or before October 23, 2013.

Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED this 28th day of August, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 31-7103-1301

103. TRANSPORTATION OF HAZARDOUS MATERIAL BY RAIL (RULE 103).

01. Hazardous Material Defined. "Hazardous material" means a substance or material which has been determined by the United States Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated by the Secretary of Transportation. The term includes hazardous substances, hazardous wastes, marine pollutants, elevated temperature materials as defined in 49 C.F.R. Section 171.8, materials designated as hazardous under the provisions of 49 C.F.R. Section 172.101, and materials that meet the defining criteria for hazardous classes and divisions in 49 C.F.R. Part 173. (3-30-01)

02. Adoption of Federal Safety Regulations. The Commission hereby adopts by reference 49 C.F.R. Parts 107, 171, 172, 173, 174, 178, 179, and 180 (October 1, 201~~3~~³). All customers offering hazardous materials for shipment by rail and all railroads operating in Idaho that transport hazardous materials listed in, defined by, or regulated by the adopted federal safety regulations must comply with 49 C.F.R. Parts 107, 171, 172, 173, 174, 178, 179 and 180. (3-29-12)()

03. Recognition of Federal Exemptions. Whenever a railroad or shipper has applied to a federal agency and has been granted an exemption from the transportation or packaging requirements of the federal safety regulations adopted in Subsection 103.02, the federal exemption will also be recognized under these rules. The Commission shall not administer a

program to duplicate consideration or approval of federal exemptions on a state level. (3-30-01)

104. REPORTING OF RAILROAD ACCIDENTS (RULE 104).

The Commission incorporates by reference 49 C.F.R. Part 225 (October 1, 201~~0~~3). Pursuant to 49 C.F.R. 225.1, all railroads that are required to file a copy of any accident/incident report with the Federal Railroad Administration shall also file a copy of such report with the Commission Secretary for accidents or incidents occurring in Idaho. Copies of accident or incident reports shall be mailed to: Commission Secretary, Idaho Public Utilities Commission, PO Box 83720, Boise, Idaho 83720-0074 ((208) 334-0338). Copies of such reports may also be provided by facsimile at (208) 334-3762 or by electronic mail, secretary@puc.idaho.gov. (~~4-7-11~~)()

IDAPA 34 - SECRETARY OF STATE

34.06.01 - RULES GOVERNING THE ELECTRONIC RECORDING OF REAL PROPERTY

DOCKET NO. 34-0601-1301 (NEW CHAPTER)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-903(9), Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the July 3, 2013 Idaho Administrative Bulletin, [Vol. 13-7, pages 80 through 86](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jeff Harvey, UCC Supervisor, at (208) 332-2849.

DATED this 6th day of August, 2013.

Jeff Harvey
UCC Supervisor
Office of the Secretary of State
700 W. State St.
P. O. Box 83720
Boise, ID 83720-0080
Phone: (208) 332-2849
Fax: (208) 334-2282

**THE FOLLOWING NOTICE WAS PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rule is **May 21, 2013**.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 67-903(9), 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 July 17, 2013.

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:

In keeping with the mandated requirements of the Electronic Recording Commission, pursuant to Section 31-2905, Idaho Code, and in keeping with Title 31, Chapter 29, Idaho Code, "Uniform Real Property Recording Act," the commissioners seek to promulgate these rules in order to create uniformity in all of Idaho's real property recording agencies. This is a new set of rules. No changes are being made to existing rules.

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

The Uniform Real Property Recording Act, Title 31, Chapter 29, Idaho Code, requires that the Electronic Recording Commission adopt standards for electronic recording, to ensure uniformity within the state, and also requires that the standards be consistent with those adopted and used by other jurisdictions. Electronic recording is already accepted in 37 counties in Idaho. The Property Records Industry Association (PRIA) is the recognized national standard-setting body for electronic recording of real property documents. These proposed rules are based on and consistent with the most recent PRIA standards. The commissioners seek to promulgate these rules in order to create uniformity in all of Idaho's real property recording agencies, as well as consistency with the practices of jurisdictions outside of Idaho. Immediate promulgation of the standards as temporary rules will confer a benefit by making public the practices and procedures of those responsible for the recording of real property (the county clerks). Immediate promulgation will also provide the county clerks with a written set of standards that they can reference should questions or concerns arise regarding the nature or implementation of recording

practices with regard to real property.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, formal negotiated rulemaking was not feasible due to the need for temporary rulemaking. The Electronic Recording Commission seeks to promulgate these rules in order to create uniformity in all of Idaho's real property recording agencies. The practices and procedures written into these rules have been in effect for many months but have not been codified. Additionally, the Commission did not have the funds necessary to affect a formal negotiated rulemaking process. The text of the rules formulated by the Commission was reviewed by all 44 county clerks. Representatives of the Idaho Association of Recorders and Clerks, appointed by the Idaho Clerks, and title company representatives from AmeriTitle and Alliance Title also participated in review of the rules.

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

Electronic recording of real property documents shall meet technical standards for document formatting and document data fields and follow implementation guidelines as prescribed by the Property Records Industry Association (PRIA) which are hereby incorporated by reference, made a part of these rules, and listed below. These standards are available from the Property Records Industry Association, 2501 Aerial Center Parkway, Ste. 103, Morrisville, NC 27560, and at <http://www.pria.us/>.

1. PRIA Request Version 2.4.2, August 2007;
2. PRIA Response Version 2.4.2, August 2007;
3. Document Version 2.4.1, October 2007;
4. Notary Version 2.4.1, October 2007;
5. eRecording XML Implementation Guide for Version 2.4.1, Revision 2, March 2007; and
6. URPERA Enactment and eRecording Standards Implementation Guide, December 2005.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Jeff Harvey, UCC Supervisor, at (208) 332-2849.

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 July 24, 2013.

DATED this 7th day of June, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 34-0601-1301

IDAPA 34
TITLE 06
CHAPTER 01

34.06.01 - RULES GOVERNING THE ELECTRONIC
RECORDING OF REAL PROPERTY

000. LEGAL AUTHORITY.

In accordance with Section 67-903(9), Idaho Code, the Secretary of State has authority to promulgate administrative rules in order to execute the Uniform Real Property Electronic Recording Act enacted as Title 31, Chapter 29, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 34.06.01, "Rules Governing the Electronic Recording of Real Property," IDAPA 34, Title 06, Chapter 01. ()

02. Scope. These rules shall govern the filing, acceptance, indexing and searching of real property records in the county recording offices under Title 31, Chapter 29, Idaho Code. ()

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, documents relating to the interpretation of these rules, and to the documentation of compliance with this chapter, are available for public inspection and copying at the Office of the Secretary of State. ()

003. ADMINISTRATIVE APPEALS.

This chapter does not provide for appeal of the filing requirements. ()

004. INCORPORATION BY REFERENCE.

Data and document formats necessary for electronic recording are incorporated by reference. ()

01. PRIA Standards. Electronic recording of real property documents shall meet technical standards for document formatting and document data fields and follow implementation guidelines as prescribed by the Property Records Industry Association (PRIA) which are hereby

incorporated by reference, made a part of this rule, and listed below: ()

- a. PRIA Request Version 2.4.2, August 2007; ()
- b. PRIA Response Version 2.4.2, August 2007; ()
- c. Document Version 2.4.1, October 2007; ()
- d. Notary Version 2.4.1, October 2007; ()
- e. eRecording XML Implementation Guide for Version 2.4.1, Revision 2, March 2007; ()
- d. URPERA Enactment and eRecording Standards Implementation Guide, December 2005. ()

02. Standards Availability. These standards are available from the Property Records Industry Association, 2501 Aerial Center Parkway, Ste. 103, Morrisville, NC 27560, and at <http://www.pria.us/>. ()

005. OFFICE HOURS -- CONTACT INFORMATION.

The Office of the Secretary of State is located in Boise, Idaho, in the Statehouse located at 700 West Jefferson. The Commercial Division is in the Basement at the West End of the Capitol and is open from 8 a.m. to 5 p.m. except Saturdays, Sundays and legal holidays. The mailing address is: Secretary of State's Office, P.O. Box 83720, Boise, Idaho 83720-0080. The telephone number is (208) 334-2300. The facsimile number is (208) 334- 2282. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

All records associated with these rules are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. ()

007. -- 009. (RESERVED)

010. DEFINITIONS.

01. Delivery Agent. A party who has entered into an agreement with a Participating Recorder to deliver an Electronic Document from a Submitter to a Participating Recorder and to return the recorded Electronic Document to the Submitter. ()

02. Document. The meaning shall be the same as provided in Section 31-2902, Idaho Code. ()

03. Electronic Document. The meaning shall be the same as provided in Section 31-2902, Idaho Code. ()

04. Electronic Document Delivery System. An automated system for the secure transmission of an Electronic Document between a Submitter and a Participating Recorder through the use of a Delivery Agent. ()

05. Electronic Recording. The delivery and return of an Electronic Document, using an Electronic Document Delivery System, for the purpose of recording that document with the county records. ()

06. Electronic Signature. The meaning shall be the same as provided in Section 31-2902, Idaho Code. ()

07. Participating Recorder. A county recorder who has elected to accept Electronic Documents for recording. ()

08. PDF (Portable Document Format). The file format originally created by Adobe Systems for document exchange allowing documents to be viewed as they were intended to appear. PDFs are a common format for image exchange or World Wide Web presentation. ()

09. Submitter. A party who requests that an Electronic Document be recorded. ()

10. TIFF (Tagged Image File Format). The variable-resolution bitmapped image format originally developed by the Aldus Corporation (now part of Adobe Systems) and published as ISO 12639:2004, Graphic technology-Prepress digital data exchange-Tag image file format for image technology (TIFF/IT). TIFF is a common format for high-quality black and white, gray-scaled, or color graphics of any resolution and is made up of individual dots or pixels. ()

11. XML (Extensible Markup Language). An extensible document language for specifying document content. XML is not a predefined markup language but a metalanguage (a language for describing other languages) allowing the user to specify a document type definition (DTD) and design customized markup languages for different classes of documents. ()

011. -- 100. (RESERVED)

101. ELECTRONIC RECORDING MODELS.

Electronic Documents shall conform to one of the following models: ()

01. Model 1. Model 1, which utilizes scanned ink-signed Documents, transmitted without XML indexing data; ()

02. Model 2. Model 2, which utilizes scanned ink-signed Documents or Documents that have been created and signed electronically, transmitted with XML indexing data; or ()

03. Model 3. Model 3, which utilizes Documents that have been created and signed electronically, transmitted with embedded XML indexing data. ()

102. TRANSMITTED FILES.

01. Technical Standards for Transmitted Files. The technical standards for document formatting and data fields for Electronic Recording are those in effect at the time of the Electronic Recording as prescribed by the Property Records Industry Association (PRIA) in the

PRIA eRecording XML Standard Version 2.4, which includes PRIA Request Version 2.4.2 (August 2007); PRIA Response Version 2.4.2 (August 2007); Document Version 2.4.1 (October 2007); and Notary Version 2.4.1 (October 2007). ()

02. Guide to Be Consulted for Reference. The PRIA eRecording XML Implementation Guide for Version 2.4.1, Revision 2 (March 2007) should be consulted for reference. ()

03. Storage Formats. Electronic Documents shall be transmitted and stored as either TIFF or PDF files, in accordance with the TIFF 6.0 specification, published by the International Organization for Standardization as ISO 12639:2004, Graphic technology - Prepress digital data exchange - Tag image file format for image technology (TIFF/IT), or the PDF 1.7 specification, published by the International Organization for Standardization as ISO 32000-1:2008, Document management - Portable document format - Part 1: PDF 1.7. ()

103. DATA FORMATS.

The data format for Electronic Recordings shall meet technical standards and data fields set forth by the Property Records Industry Association (PRIA) in the PRIA eRecording XML Standard Version 2.4, which includes PRIA Request Version 2.4.2 (August 2007); PRIA Response Version 2.4.2 (August 2007); Document Version 2.4.1 (October 2007);, and Notary Version 2.4.1 (October 2007). The PRIA eRecording XML Implementation Guide for Version 2.4.1, Revision 2 (March 2007) should be consulted for reference. ()

104. PARTICIPATING RECORDER.

01. Documents Accepted. A Participating Recorder is only required to accept Electronic Documents containing Electronic Signatures or notarizations that the Participating Recorder has the technology to support. ()

02. Authentication. A Participating Recorder has no responsibility to authenticate Electronic Signatures or notarizations. ()

105. ELECTRONIC RECORDING PROCESSING REQUIREMENTS.

01. Notice Requirements. A Participating Recorder shall provide appropriate notification to the Delivery Agent of the confirmation or rejection of an Electronic Recording through the Electronic Document Delivery System. ()

a. A notice of confirmation shall identify and include recording information for the recorded Electronic Document. ()

b. A notice of rejection shall identify the rejected Electronic Document and include a brief explanation of the reason for rejection. ()

c. The Delivery Agent shall notify the Submitter of the confirmation or rejection of the Electronic Document. ()

d. The failure of a Submitter to receive actual notice of confirmation or rejection of a

recording shall not affect the validity of the confirmation or rejection. ()

02. Contact Information. A Participating Recorder may contact a Submitter regarding an Electronic Document submitted for recording prior to sending a notice of confirmation or rejection. The Delivery Agent shall ensure that the Submitter includes telephone or email contact information with each Electronic Document submission. ()

03. Time of Receipt. A Participating Recorder shall enter the time of receipt of Electronic Documents in accordance with Section 31-2410, Idaho Code. ()

106. SECURITY REQUIREMENTS.

Procedures shall be implemented and maintained to ensure the security of the Electronic Document Delivery System, including the authenticity and integrity of the Electronic Documents maintained by the Participating Recorder. ()

01. Secure Method. A Participating Recorder shall provide a secure method for accepting Documents through the Electronic Document Delivery System and for recording and maintaining Electronic Documents within the Participating Recorder's records. ()

02. Security Procedures. A Delivery Agent shall implement and maintain security procedures for all electronic transmissions and shall be responsible for maintaining the security of the systems within their offices. ()

03. System and Security Failures. Electronic Document Delivery Systems shall protect against system and security failures and, in addition, shall provide backup, disaster recovery and audit trail mechanisms. Delivery Agents shall provide audit trail information to Participating Recorders on request. ()

04. Unauthorized Party. Electronic Document Delivery Systems shall not permit any unauthorized party to modify, manipulate, insert or delete information, without detection, in Electronic Documents or in the public record maintained by the Participating Recorder. ()

05. Notification of Breach. If a breach in security is detected by the Participating Recorder, Delivery Agent or Submitter, the party discovering the breach shall notify the other parties immediately. All parties shall work cooperatively to take remedial action and to resolve any issues related to a breach. ()

107. AGREEMENT AND PROCEDURES.

01. Participation Agreement. The Delivery Agent and the Participating Recorder shall enter into an agreement specifying the requirements for Electronic Document recording with the county. At a minimum, the agreement shall address the following items: ()

a. Accepted Electronic Recording models; ()

b. Accepted Electronic Document types; ()

c. Defined technical specifications for data formats, document formats, electronic

transmissions and security; ()

d. If used by the Participating Recorder, indexing fields required for each Electronic Document; ()

e. Electronic Signature and notarization requirements; ()

f. Payment options for recording fees and applicable taxes; ()

g. Hours during which Electronic Documents will be accepted and processing schedules that affect order of acceptance; ()

h. Electronic Document acceptance and rejection requirements and procedures; ()

i. Responsibility of the Delivery Agent to review the qualifications of each potential Submitter and to approve the potential Submitter prior to granting access to the Electronic Document Delivery System; and ()

j. Responsibility of the Delivery Agent to enter into an agreement with each approved Submitter, in which the Submitter agrees to submit Electronic Documents for recording in accordance with all applicable state statutes and rules and to maintain the security of the systems within the Submitter's offices. ()

02. Other Procedures and Requirements. A Participating Recorder may include in the agreement other procedures and requirements needed in order to implement fully an Electronic Recording program. ()

03. Establishment and Posting of Procedures. A Participating Recorder shall establish procedures for Electronic Recording in the municipality and shall post the procedures in the recorder's office, on the municipality's Internet website, if available, and through the Electronic Document Delivery System, and shall make a copy of the procedures available on request. The procedures shall cover, at a minimum, the items listed above in this subsection. ()

108. -- 999. (RESERVED)

IDAPA 38 - DEPARTMENT OF ADMINISTRATION

38.04.06 - RULES GOVERNING USE OF THE EXTERIOR OF STATE PROPERTY IN THE CAPITOL MALL AND OTHER STATE FACILITIES

DOCKET NO. 38-0406-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 67-1604 and 67-5709, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the May 1, 2013 Idaho Administrative Bulletin, [Vol. 13-5, pages 107 through 113](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Teresa Luna, Director, at (208) 332-1827.

DATED this 29th day of May, 2013.

Teresa Luna
Director
Department of Administration
650 W. State St.
P. O. Box 83720
Boise, ID 83720-0013
Phone: (208) 332-1827
Fax: (208) 334-2307

**THE FOLLOWING NOTICE WAS PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rule is **April 5, 2013**.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 67-1604 and 67-5709, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than May 15, 2013.

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 Idaho Legislature rejected certain provisions of IDAPA 38.04.06 during the 2013 session. This action created unnecessary definitions and necessitated clarifications. The chapter was further revised to reflect informal requests of legislators during rules reviews hearings and to address ambiguities noted by other parties.

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 revisions confer a benefit to the public by clarifying the requirements for use of state facilities.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the majority of the revisions are simple in nature and necessary for clarity. Some of the ambiguities clarified were identified by affected interests. The remaining revisions reflect the request of legislators and consensus with the representatives of

affected interests, including those present at 2013 legislative hearings, is unlikely.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Teresa Luna, Director, at (208) 332-1827.

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 May 22, 2013.

DATED this 5th day of April, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 38-0406-1301

010. DEFINITIONS.

- 01. Camping.** Any activity prohibited under Section 67-1613, Idaho Code. (3-27-13)
- 02. Capitol Annex.** The grounds, exterior of buildings, exterior of improvements, and real property located at 514 West Jefferson Street, Boise, Idaho and occupying block 65 as shown on the Boise City original townsite plat filed in the Ada County Recorder's office in Book 1 on page 1. (3-27-13)
- 03. Capitol Mall Office Properties.** The grounds, exterior of buildings, exterior of improvements, and real property set forth in Section 67-5709(2)(a) and (b), Idaho Code. The Capitol Mall Office Properties do not include the Idaho State Capitol or its grounds or the Capitol Mall Annex. (3-27-13)
- 04. Commemorative Installation.** Any statue, monument, sculpture, memorial or landscape feature designed to recognize a person, group, event or element of history. (3-27-13)
- 05. Department.** The Department of Administration. (3-27-13)
- 06. Director.** The Director of the Department of Administration or his designee. (3-27-13)
- ~~**07. Event.** Any press conference, performance, ceremony, presentation, meeting, rally,~~

~~reception, demonstration, protest, educational tour or gathering of people held at the State Facilities. As used in this definition, a gathering consists of two (2) or more people. (3-27-13)~~

~~08. **Exhibit.** Any temporary Commemorative Installation and any attended or unattended display, including, but not limited to, equipment, machines, vehicles, products, samples, paintings, sculptures, arts and crafts, photographs, signs, banners or other graphic displays. (3-27-13)~~

097. Multi-Agency Facilities. The grounds, exterior of buildings, exterior of improvements, and real property set forth in Section 102 of these rules. (3-27-13)

108. Other State Properties. The grounds, exterior of buildings, exterior of improvements, and real property set forth in Section 101 of these rules. (3-27-13)

109. Parking Facilities. The facilities, exterior of buildings, exterior of improvements, and real property set forth in Section 67-5709(2)(b), Idaho Code. (3-27-13)

120. Private Event or Private Exhibit. Any activity sponsored or initiated by a member of the public that is open only to invited or qualifying individuals or groups. Private Events and Private Exhibits include, but are not limited to, weddings, dinners, award ceremonies, memorials, and seminars. (3-27-13)

131. Public Use. Use that is not ~~an Event, Private Event, Exhibit, Private Exhibit or use by a public officer, official, employee, contractor, agency, board or commission for state of Idaho business. Public Use includes, but is not limited to, the following: (3-27-13)()~~

a. ~~The transit of individuals through the A State Facilities unrelated to an Event or Exhibit; (3-27-13)()~~

b. ~~Incidental, short-term recreational use of the State Facilities unrelated to an Event or Exhibit; and (3-27-13)~~

eb. ~~The conduct of Use by a public business with any state of Idaho officer, official, employee, contractor, agency, or board, or commission, officer or elected official acting on behalf of the for state of Idaho business; or (3-27-13)()~~

c. State Maintenance and Improvements. ()

142. Security Personnel. A state of Idaho employee or a staff member of a state of Idaho contractor whose job duties include monitoring compliance with and enforcing these rules. (3-27-13)

153. State Events and Exhibits. All functions initiated and controlled by any state of Idaho agency, board, commission, officer or elected official acting on behalf of the state of Idaho. (3-27-13)

164. State Facilities. The Capitol Mall Office Properties, the Capitol Annex, the Multi-agency Facilities, the Parking Facilities and the Other State Properties. Use of the phrase “at the

State Facilities” shall include the exterior of buildings, exterior of improvements and the grounds and real property comprising the State Facilities. (3-27-13)

175. State Maintenance and Improvements. Maintenance or improvement of the State Facilities by the state of Idaho or its contractors. Maintenance for the purpose of this definition includes, but is not limited to, grounds maintenance such as mowing, watering, landscaping, aerating, resodding, fertilizing and planting, and structural maintenance such as pressure washing, painting, window cleaning and re-glazing. Improvement for the purpose of this definition includes, but is not limited to, the following: construction of new buildings or portions of buildings; renovations to existing buildings; the installation of permanent structures and equipment such as benches, sprinklers, flagpoles, monuments and memorials; and, the installation of temporary equipment and structures such as construction fencing, generators and portable buildings. (3-27-13)

011. -- 100. (RESERVED)

101. OTHER STATE PROPERTIES.

These rules shall apply to the following Other State Properties pursuant to the request of the state of Idaho public entity owning or controlling the property: (3-27-13)

01. Idaho State Historical Society Properties. (3-27-13)

a. The following properties owned or operated by the Idaho State Historical Society shall be Other Properties under these rules: (3-27-13)

i. Idaho State Historical Museum, located at 610 North Julia Davis Drive, Boise, Idaho. (3-27-13)

ii. Old U.S. Assay Office, located at 210 Main Street, Boise, Idaho. (3-27-13)

iii. Old Penitentiary site located in Boise, Idaho and defined in Section 58-337, Idaho Code. (3-27-13)

iv. Idaho History Center, located at 2205 Old Penitentiary Road, Boise, Idaho. (3-27-13)

v. Franklin Historic Properties, located in Franklin, Idaho. The Franklin Historic Properties include the Franklin Co-operative Mercantile Institution Building, the Hatch House, the Doney House, and the Relic Hall. (3-27-13)

vi. Pierce Courthouse, located in Pierce, Idaho. (3-27-13)

vii. Rock Creek Station and Stricker Homesite, located at 3715 Stricker Cabin Road, Hansen, Idaho. (3-27-13)

b. The following sections of these rules shall apply to the Idaho State Historical Society Properties set forth in Paragraph 101.01.a. of these rules only as modified by this Paragraph 101.01.b.: (3-27-13)

- i. Subsection 010.06. “Director” shall mean the Executive Director of the Idaho State Historical Society when these rules are applied to the Idaho State Historical Society Properties. (3-27-13)
- ii. Subsection 200.01. “Authorized Uses by the Public” shall apply except that the Director may authorize Private Events or Exhibits and the exclusion of members of the public from attending Private Events and Exhibits. For the purpose of this subsection, the grant of a lease or a license is authorization to exclude members of the public from a Private Event or Exhibit. (3-27-13)
- iii. Section 302. “~~Hours~~ **Maintenance** and ~~Locations of Use~~ **Improvements**” shall apply as if the Idaho State Historical Properties were Capitol Mall Office Properties unless ~~other hours of use or access restrictions are~~ **otherwise** designated at the property, or posted on the Idaho State Historical Society website. (3-27-13)()
- iv. Subsection 305.02. “Domestic Animals” shall apply unless a sign at the property specifies that domestic animals are not permitted. (3-27-13)
- c. The Idaho State Historical Society Properties set forth in Paragraph 101.01.a. of these rules may be licensed or leased and such license or lease may vary the provisions of these rules applicable to use of the property under this chapter, including but not limited to the following: ~~hours of use~~; commercial use; Public Use; Private Events or Exhibits; consumption and distribution of alcohol; affixing of materials to the Idaho State Historical Society Properties; use of sound amplification; fireworks displays; and, use of utilities. (3-27-13)()

(BREAK IN CONTINUITY OF SECTIONS)

200. USE OF STATE FACILITIES.

01. Authorized Uses by the Public. Except as provided otherwise in these rules, the State Facilities are available for ~~use by the public for the following~~: (3-27-13)

~~a. Events. Events shall be held only in the locations and during the hours set forth in these rules. Events shall not exclude any member of the public from attending the Event.~~ (3-27-13)

~~b. Exhibits. Exhibits shall be held only in the locations and during the hours set forth in these rules. Exhibits shall not exclude any member of the public from attending the Exhibit.~~ (3-27-13)

~~c.~~ Public Use. (3-27-13)()

02. Prohibited Uses. The following uses are prohibited at the State Facilities: (3-27-13)

a. Commercial Activity. The State Facilities shall not be used for any activity conducted for profit and no persons shall solicit to sell any merchandise or service at the State Facilities. The following are not commercial activity prohibited by this subsection: (3-27-13)

i. Meetings or conferences for public employees or their relatives describing employee benefits and approved by a state of Idaho agency. (3-27-13)

ii. Concessions authorized by law. (3-27-13)

iii. Vaccinations may be provided in exchange for a fee without the prior written permission of the Director where approved by a state of Idaho agency, board, commission or elected official. (3-27-13)

b. Camping. (3-27-13)

c. Private Events and Exhibits. (3-27-13)

03. State Events and Exhibits. State Events and Exhibits may occur in any portion of the State Facilities. The Director may waive all or a portion of these rules for a State Event or Exhibit. (3-27-13)

04. Priority of Uses. State Maintenance and Improvements shall have priority over all other use of the State Facilities. ~~State Events and Exhibits shall have priority over public Events and Exhibits, and Public Use.~~ (3-27-13)()

201. ~~RESERVED~~ PUBLIC USE DURATION.

~~The duration of Public Use at any single facility of the State Facilities, including time for set-up and clean-up, shall not exceed seven (7) consecutive days. A Public Use may continue at the State Facilities after a seven (7) consecutive day period if the Public Use does not use the same facility for twenty-four (24) hours or more between each seven (7) consecutive day period. All items must be removed at the earlier of the conclusion of the Public Use or the end of the seven (7) consecutive day period.~~ ()

(BREAK IN CONTINUITY OF SECTIONS)

203. ESTABLISHMENT OF PERIMETERS.

Security Personnel and law enforcement may establish perimeters separating participants in ~~Exhibits and~~ Public Use of the State Facilities or State Events and Exhibits. Participants in and observers of any Public Use or State Events ~~or and Exhibits~~ shall observe perimeters set pursuant to this section. (3-27-13)()

204. AREA CLOSURES.

The Director may direct that any portion of the State Facilities be closed for ~~Events, Exhibits and~~ Public Use upon a finding that the closed portion of the State Facilities has sustained damage or is

in imminent danger of sustaining damage. The closure directive shall identify the portion of the State Facilities closed, the damage that has occurred or that will occur without closure, and the estimated period of closure to restore or prevent the damage. A notice of closure and information on how to obtain a copy of the closure directive shall be posted at the closed portion of the State Facilities. Circumstances presenting an imminent danger of damage to the State Facilities include, but are not limited to, the saturation of soil, turf, or landscaped areas with water, excessive foot traffic over landscaped areas, preventing turf or plants from obtaining adequate sunlight, and the buildup of ice or snow on landscaped areas. (3-27-13)()

205. -- 299. (RESERVED)

300. RESTRICTIONS AND LIMITATIONS ON USE.

The restrictions and limitations on use of the State Facilities set forth in Sections 301 through 399 of these rules shall apply to all ~~Events, Exhibits, and~~ Public Use of the State Facilities. (3-27-13)()

301. USES INTERFERING WITH ACCESS OR USE OF FACILITY.

01. Interference with Primary Use of Facility or Real Property. ~~Events, Exhibits, and~~ Public Use of the State Facilities shall not interfere with the primary use of the facility or real property adjoining the facility. The primary uses of the State Facilities include, but are not limited to, public meetings and hearings, court proceedings, and the conduct of public business by agencies or officials of the state of Idaho that normally occupy and use the affected facility or the real property adjoining the facility. (3-27-13)()

02. Interference with Access. ~~Events, Exhibits and~~ Public Use of the State Facilities shall not block fire hydrants, fire or emergency vehicle lanes, vehicular drives, pedestrian walkways, doorways, steps or similar access routes through, in or out of the State Facilities. (3-27-13)()

302. ~~HOURS MAINTENANCE AND LOCATIONS OF USE IMPROVEMENTS.~~

~~The hours for Events and Exhibits at the State Facilities are as follows:~~ (3-27-13)

~~01. Maintenance and Improvements.~~ ~~Notwithstanding the hours set forth in Subsections 302.01 and 302.02 of this section, Events, Exhibits and~~ Public Use shall not interfere with State Maintenance and Improvements. The Department will publish the regular maintenance and improvement schedule at the website address set forth in Section 005 of these rules. The regular maintenance and improvement schedule may be modified due to weather, staffing, emergency repairs, equipment failures, funding changes, contract modifications, State Events and Exhibits or other causes arising after the schedule's publication. (3-27-13)()

(BREAK IN CONTINUITY OF SECTIONS)

314. UTILITY SERVICE.

~~Events, Exhibits, and~~ **†**The public may not use the utility services of the State Facilities other than

restrooms; provided, however, the Director may authorize limited use of electrical service for the duration of ~~an Event or Exhibit~~ **Public Use** authorized by these rules. Utility services include, but are not limited to, electrical, sewage, water, heating, and geothermal services. The Director may terminate the use of utilities if such use interferes with the utility services of the State Facilities or the equipment or apparatus using utility service fails to comply with applicable rules or codes.

~~(3-27-13)~~()

315. LAW ENFORCEMENT AND FACILITY EXIGENCY.

In case of a fire, bomb threat, utility malfunction, structural failure or other unforeseen emergency or threat endangering public safety or health, or endangering public property, law enforcement, Security Personnel and state employees or officials may direct all persons off of the State Facilities and delay or postpone any ~~Event, Exhibit or other~~ activity until the emergency or threat is abated.

~~(3-27-13)~~()

(BREAK IN CONTINUITY OF SECTIONS)

317. HEALTH, SAFETY, AND MAINTENANCE OF STATE FACILITIES.

01. Clean Condition After Use. Users shall leave the State Facilities in reasonably clean condition after use, including depositing all trash in designated receptacles. (3-27-13)

02. Items Return to Proper Location. Users shall return all items including, but not limited to, movable furniture and trash receptacles, to their location at the conclusion of the ~~Event or Exhibit~~ **use**.

~~(3-27-13)~~()

03. Public Health. No person shall excrete human waste at the State Facilities except in designated restroom facilities. For purposes of this section, excrete means the discharge of human waste from the body, including the acts of defecation and urination. For purposes of this section, human waste means human feces or human urine. (3-27-13)

04. Fireworks. No person shall possess or use fireworks at the State Facilities. (3-27-13)

318. -- 399. (RESERVED)

400. LIABILITY AND INDEMNIFICATION.

01. User Retains Liability. Individuals, entities, and organizations using the State Facilities are responsible and liable for all suits, damages, claims or liabilities arising from **their** use of the State Facilities. The state of Idaho shall have no liability for injury to private property, including posters, placards, banners, signs, equipment, tables, materials, and displays at the State Facilities.

~~(3-27-13)~~()

02. State Liability. Nothing in these rules shall extend the liability of the state of Idaho beyond that provided in the Idaho Tort Claims Act, Title 6, Chapter 9, Idaho Code.

(3-27-13)

03. Indemnification. Any individual, entity, or organization permitted to use the State Facilities is deemed to agree to indemnify the state of Idaho from and against all claims, demands, actions, or causes of action, together with any and all losses, costs, or related expenses asserted by any group or persons for bodily injury or damage to property arising out of or in any way connected with the use of the State Facilities by the user. ~~(3-27-13)~~()

04. No Endorsement. Action or inaction of the Department shall not imply endorsement or approval by the state of Idaho of the actions, objectives or views of participants in ~~an Event or Exhibit~~ Public Use of the State Facilities. ~~(3-27-13)~~()

IDAPA 38 - DEPARTMENT OF ADMINISTRATION

38.04.08 - RULES GOVERNING USE OF THE STATE CAPITOL EXTERIOR

DOCKET NO. 38-0408-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-5709, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the May 1, 2013 Idaho Administrative Bulletin, [Vol. 13-5, pages 116 through 125](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Teresa Luna, Director, at (208) 332-1827.

DATED this 29th day of May, 2013.

Teresa Luna
Director
Department of Administration
650 W. State St.
P. O. Box 83720
Boise, ID 83720-0013
Phone: (208) 332-1827
Fax: (208) 334-2307

**THE FOLLOWING NOTICE WAS PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rule is **April 5, 2013**.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 67-5709, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than May 15, 2013.

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 Idaho Legislature rejected certain provisions of IDAPA 38.04.08 during the 2013 session. This action created unnecessary definitions and necessitated clarifications. The chapter was further revised to reflect informal requests of legislators during rules reviews hearings and to address ambiguities noted by other parties.

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 revisions confer a benefit to the public by clarifying the requirements for use of the state capitol exterior.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the majority of the revisions are simple in nature and necessary for clarity. Some of the ambiguities clarified were identified by affected interests. The remaining revisions reflect the request of legislators and consensus with the representatives of affected interests, including those present at 2013 legislative hearings, is unlikely.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Teresa Luna, Director, at (208) 332-1827.

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 May 22, 2013.

DATED this 5th day of April, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 38-0408-1301

010. DEFINITIONS.

- 01. Camping.** Any activity prohibited under Section 67-1613, Idaho Code. (3-27-13)
- 02. Commemorative Installation.** Any statue, monument, sculpture, memorial or landscape feature designed to recognize a person, group, event or element of history. (3-27-13)
- 03. Department.** The Department of Administration. (3-27-13)
- 04. Director.** The Director of the Department of Administration or his designee. (3-27-13)
- ~~**05. Event.** Any press conference, performance, ceremony, presentation, meeting, rally, reception, demonstration, protest, educational tour or gathering of people held on the State Capitol Exterior. As used in this definition, a rally is a gathering of two (2) or more people. (3-27-13)~~
- ~~**06. Exhibit.** Any temporary Commemorative Installation and any attended or unattended display including, but not limited to, equipment, machines, vehicles, products, samples, paintings, sculptures, arts and crafts, photographs, signs, banners or other graphic displays. (3-27-13)~~
- 075. Jefferson Steps.** The building entrance at the second floor of the State Capitol, the steps extending from the entrance, and the hard surface extending between the steps and the

public sidewalk along Jefferson Street. (3-27-13)

086. Permit. A written authorization issued by the Director allowing use of the State Capitol Exterior as set forth in the Permit. A Permit serves as a reservation to use a portion of the State Capitol Exterior with the priority for use set forth in Subsection 200.04 of these rules. (3-27-13)

097. Private Event or Private Exhibit. Any activity sponsored or initiated by a member of the public that is open only to invited or qualifying individuals or groups. Private Events and Private Exhibits include, but are not limited to, weddings, dinners, award ceremonies, memorials, and seminars. (3-27-13)

108. Public Use. Use that is not ~~an Event, Private Event, Exhibit, Private Exhibit or use by a public officer, official, employee, contractor, agency, board or commission for state of Idaho business. Public Use includes, but is not limited to, the following:~~ (3-27-13)()

a. ~~The transit of individuals through the~~ **A** State Capitol Exterior unrelated to an Event or Exhibit; (3-27-13)()

b. ~~Incidental, short-term recreational use of the State Capitol Exterior unrelated to an Event or Exhibit; and~~ (3-27-13)

eb. ~~The conduct of Use by a public business with any state of Idaho officer, official, employee, contractor, agency, or board, or commission, officer or elected official acting on behalf of the for state of Idaho business; or~~ (3-27-13)()

c. State Maintenance and Improvements. ()

109. Security Personnel. A state of Idaho employee or a staff member of a state of Idaho contractor whose job duties include monitoring compliance with and enforcing these rules. (3-27-13)

120. State Business Day. Monday through Friday, excluding the holidays set forth in Section 73-108, Idaho Code. (3-27-13)

131. State Capitol Exterior. The exterior of the Idaho State Capitol, the real property, the grounds, and the improvements on the exterior of the Idaho State Capitol or its grounds, all of which is located at capitol square as identified on the Boise City original townsite plat filed in the Ada County Recorder's office in book 1 on page 1. The State Capitol Exterior is bounded by the following streets: State Street, Sixth Street, Jefferson Street, and Eighth Street. (3-27-13)

142. State Events and Exhibits. All functions initiated and controlled by any state of Idaho agency, board, commission, officer or elected official acting on behalf of the state of Idaho. (3-27-13)

153. State Maintenance and Improvements. Maintenance or improvement of the State Capitol Exterior by the state of Idaho or its contractors. Maintenance for the purpose of this definition includes, but is not limited to, grounds maintenance such as mowing, watering,

landscaping, aerating, resodding, fertilizing and planting, and structural maintenance such as pressure washing, painting, window cleaning and re-glazing. Improvement for the purpose of this definition includes, but is not limited to, the following: construction of new buildings or portions of buildings; renovations to existing buildings; the installation of permanent structures and equipment such as benches, sprinklers, flagpoles, monuments and memorials; and, the installation of temporary equipment and structures such as construction fencing, generators and portable buildings. (3-27-13)

011. -- 199. (RESERVED)

200. USE OF STATE CAPITOL EXTERIOR.

01. Authorized Uses by the Public. Except as provided otherwise in these rules, the State Capitol Exterior is available for ~~use by the public for the following:~~ (3-27-13)

~~a. Events. Events shall be held only in the locations and during the hours set forth in these rules. Events shall not exclude any member of the public from attending the Event.~~ (3-27-13)

~~b. Exhibits. Exhibits shall be held only in the locations and during the hours set forth in these rules. Exhibits shall not exclude any member of the public from attending the Exhibit.~~ (3-27-13)

~~e. Public Use.~~ (3-27-13)()

02. Prohibited Uses. The following uses are prohibited in the State Capitol Exterior: (3-27-13)

a. Commercial Activity. The State Capitol Exterior shall not be used for any activity conducted for profit and no persons shall solicit to sell any merchandise or service on the State Capitol Exterior. (3-27-13)

b. Camping. (3-27-13)

c. Private Events and Private Exhibits. (3-27-13)

03. State Events and Exhibits. State Events and Exhibits may occur in any portion of the State Capitol Exterior. The Director may waive all or a portion of these rules for a State Event or Exhibit. (3-27-13)

04. Priority of Uses. State Maintenance and Improvements shall have priority over all other use of the State Capitol Exterior. ~~State Events and Exhibits shall have priority over public Events and Exhibits, and Public Use. Events and Exhibits~~ **Public Use** held under a Permit shall have priority over other ~~public Events and Exhibits and~~ Public Use. (3-27-13)()

201. ~~RESERVED~~ PUBLIC USE DURATION.

The duration of Public Use on the State Capitol Exterior, including time for set-up and clean-up, shall not exceed seven (7) consecutive days in one location. A Public Use may continue at the

State Capitol Exterior after a seven (7) consecutive day period in such location if the Public Use does not use the State Capitol Exterior for twenty-four (24) hours or more between each seven (7) consecutive day period. All items must be removed at the earlier of the conclusion of the Public Use or the end of the seven (7) consecutive day period. ()

(BREAK IN CONTINUITY OF SECTIONS)

203. ESTABLISHMENT OF PERIMETERS.

Security personnel and law enforcement may establish perimeters separating participants in ~~Exhibits and~~ Public Use of the State Capitol Exterior or State Events or Exhibits. Participants in and observers of any Public Use or State Events or Exhibits shall observe perimeters set pursuant to this section. (3-27-13)()

204. AREA CLOSURES.

The Director may direct that any portion of the State Capitol Exterior be closed for ~~Events, Exhibits and~~ Public Use upon a finding that the closed portion of the State Capitol Exterior has sustained damage or is in imminent danger of sustaining damage. The closure directive shall identify the portion of the State Capitol Exterior closed, the damage that has occurred or that will occur without closure, and the estimated period of closure to restore or prevent the damage. A notice of closure and information on how to obtain a copy of the closure directive shall be posted at the closed portion of the State Capitol Exterior. Circumstances presenting an imminent danger of damage to the State Capitol Exterior include, but are not limited to, the saturation of soil, turf, or landscaped areas with water, excessive foot traffic over landscaped areas, preventing turf or plants from obtaining adequate sunlight, and the buildup of ice or snow on landscaped areas. (3-27-13)()

205. -- 299. (RESERVED)

300. RESTRICTIONS AND LIMITATIONS ON USE.

The restrictions and limitations on use of the State Capitol Exterior set forth in Sections 301 through 399 of these rules shall apply to all ~~Events, Exhibits, and~~ Public Use of the State Capitol Exterior. (3-27-13)()

301. USES INTERFERING WITH ACCESS OR USE OF FACILITY.

01. Interference With Primary Use of State Capitol Exterior. Events, ~~E~~exhibits, and Public Use of the State Capitol Exterior shall not interfere with the primary use of the Idaho State Capitol or the adjacent real property and improvements. The primary use of the Idaho State Capitol includes, but is not limited to, the conduct of public business by agencies or officials of the state of Idaho that normally occupy and use the Idaho State Capitol or the State Capitol Exterior. (3-27-13)()

02. Interference With Access. ~~Events, Exhibits, and~~ Public Use of the State Capitol Exterior shall not block fire hydrants, fire or emergency vehicle lanes, vehicular drives, pedestrian walkways, doorways, steps or similar access routes through, in or out of the State Capitol

Exterior. (3-27-13)()

302. ~~HOURS AND LOCATIONS OF USE.~~

01. ~~Hours-Locations.~~ ~~The hours for Events and Exhibits~~ In addition to limitations on the interference with access set forth in Section 301 of these rules and compliance with all fire and safety codes, Public Use on the State Capitol Exterior ~~are as follows~~ shall be: (3-27-13)()

a. On the Jefferson Street Steps or on hard surfaces, including concrete and granite, on the State Capitol Exterior; and ()

b. At least fifteen (15) feet from the exterior walls and windows of the Idaho State Capitol. ()

303. MAINTENANCE AND IMPROVEMENTS.

~~Notwithstanding the hours set forth in Paragraphs 302.01.a., 302.01.b., 302.01.c., and 302.01.d. of this section, Events and Exhibits~~ Public Use shall not interfere with State Maintenance and Improvements. The Department will publish the regular maintenance and improvement schedule at the website address set forth in Section 005 of these rules. The regular maintenance and improvement schedule may be modified due to weather, staffing, emergency repairs, equipment failures, funding changes, contract modifications, State Events and Exhibits or other causes arising after the schedule's publication. (3-27-13)()

3034. MOTORIZED VEHICLES.

Motorized vehicles not owned or operated by the state of Idaho or law enforcement must remain on designated roadways and parking areas. Parking of motorized vehicles shall be governed by IDAPA 38.04.04, "Capitol Mall Parking Rules." Wheelchairs, motorized scooters, and other equipment providing individual mobility to the disabled are not motorized vehicles for the purposes of this section. (3-27-13)

3045. BICYCLES, SKATES, SKATEBOARDS, SCOOTERS, AND OTHER NON-MOTORIZED TRANSPORTATION.

Bicycles, skates, skateboards, and scooters may not be used on the State Capitol Exterior. Users of all other non-motorized transportation must remain on designated pathways during use. Where indicated by a posted notice or where requested by Security Personnel, law enforcement or a state employee or agent supervising the State Capitol Exterior, users must store non-motorized transportation in a designated storage area on the State Capitol Exterior. Wheelchairs and other equipment providing individual mobility to the disabled are not non-motorized transportation for the purposes of this section. (3-27-13)

3056. ANIMALS.

The following shall apply to animals on the State Capitol Exterior: (3-27-13)

01. Wildlife. Unless authorized by the Director no person shall: (3-27-13)

a. Interfere with, hunt, molest, harm, frighten, kill, trap, chase, tease, annoy, shoot or throw any object at a wild animal on the State Capitol Exterior. (3-27-13)

b. No person shall feed, give or offer food or any noxious substance to a wild animal on the State Capitol Exterior. (3-27-13)

02. Domestic Animals. (3-27-13)

a. Domestic animals are not allowed on the State Capitol Exterior unless leashed and under the control of the person bringing the animal to the State Capitol Exterior. (3-27-13)

b. The person bringing the animal to the State Capitol Exterior shall have in his possession the equipment necessary to remove the animal's fecal matter and shall immediately remove all fecal matter deposited by the animal. (3-27-13)

3067. LANDSCAPING.

No person other than state employees or contractors designated by the Director shall: (3-27-13)

01. Plants. Damage, cut, carve, transplant or remove any plant including, but not limited to, trees, on the State Capitol Exterior. (3-27-13)

02. Grass. Dig in or otherwise damage grass areas on the State Capitol Exterior. (3-27-13)

03. Irrigation Equipment. Interfere with, damage or remove irrigation equipment on the State Capitol Exterior. (3-27-13)

04. Landscaping Materials. Move or alter landscaping materials on the State Capitol Exterior including, but not limited to, rock, edging materials, and bark or mulch. (3-27-13)

05. Climbing. Climb or scale buildings, Commemorative Installations, trees, fences, posts or other improvements on the State Capitol Exterior. (3-27-13)

3078. FOOD AND BEVERAGES.

Consumption of food and beverages on the State Capitol Exterior is subject to the following: (3-27-13)

01. Consumption May Be Prohibited. The consumption of food and beverages may be prohibited by a notice posted at the entrance to all or a portion of the State Capitol Exterior. (3-27-13)

02. Alcohol. Alcohol may not be consumed or distributed on the State Capitol Exterior. (3-27-13)

3089. SMOKING.

All persons shall observe the smoke free entrance notices and shall smoke only in designated areas of the State Capitol Exterior. (3-27-13)

3109. FIRES, CANDLES, AND FLAMES.

No fires, candles or other sources of open flame are permitted on the State Capitol Exterior. (3-27-13)

31~~0~~1. POSTERS, PLACARDS, BANNERS, SIGNS, EQUIPMENT, TABLES, MATERIALS, AND DISPLAYS.

01. Electrical Cords. Electrical cords must be protected by cord covers or gaffers tape to prevent an electrical or trip hazard. (3-27-13)

02. Railings. No items may be placed on railings and no persons shall sit or stand on railings. (3-27-13)

03. Tossing or Dropping Items. No items may be tossed or dropped over railings or from one level of the Idaho State Capitol or improvements on the grounds of the State Capitol Exterior to another level or to the ground. (3-27-13)

04. Ingress or Egress. No item, including tables, chairs, exhibits, equipment, materials, and displays shall be located so as to block ingress or egress to any portion of the State Capitol Exterior, or to restrict the follow of individuals using the facility, or to restrict emergency egress or ingress. (3-27-13)

05. Attaching, Affixing, Leaning or Propping Materials. Posters, placards, banners, signs, and displays, including any printed materials, shall not be affixed on any exterior surface of the State Capitol Exterior or on any permanent Commemorative Installation, post, railing, fence or landscaping, including trees. All posters, placards, banners, signs, and displays must be free-standing or supported by individuals. No items may be leaned or propped against any exterior surface of the State Capitol Exterior or embedded into the ground including, but not limited to, placement of a stake, post or rod into the ground to support materials. (3-27-13)

06. Materials Causing Damage to Surfaces. Stages, risers, chairs, tables, sound equipment, props, materials, displays, and similar items shall be constructed and used in a manner that will not damage, scratch, dent, dig or tear any surface on the State Capitol Exterior or any systems or utilities of the State Capitol Exterior including, but not limited to, fire suppression systems, storm drains, ventilation systems, and landscape watering systems. (3-27-13)

07. Free Distribution of Literature and Printed Material. All literature and printed material must be distributed at no charge. The party distributing literature and printed material shall ensure periodically and at the conclusion of its use of the State Capitol Exterior that such material is not discarded outside of designated trash receptacles. (3-27-13)

08. Surface Markings. Users shall not use any material to mark on any surface of the State Capitol Exterior including chalk, paint, pens, ink, or dye. (3-27-13)

31~~1~~2. ITEMS SUBJECT TO SEARCH.

To enhance security and public safety, Security Personnel and law enforcement may inspect: (3-27-13)

01. Packages and Bags. Packages, backpacks, purses, bags, and briefcases reasonably suspected of concealing stolen items or items prohibited by these rules. (3-27-13)

02. Items. Items brought onto the State Capitol Exterior, if there is a reasonable suspicion that an item may be capable of injuring, damaging or harming persons or property on the State Capitol Exterior. (3-27-13)

3123. PROHIBITED ITEMS.

The following, as defined in Title 18, Chapter 33, Idaho Code, are not permitted at the State Capitol Exterior: bombs, destructive devices, shrapnel, weapons of mass destruction, biological weapons, and chemical weapons. Security Personnel or law enforcement may direct that any person at the State Capitol Exterior immediately remove from the State Capitol Exterior any club, bat, or other item that can be used to injure, damage, or harm persons or property. (3-27-13)

~~313. RESERVED~~

314. UTILITY SERVICE.

~~Events, Exhibits, and~~ **Public Use** The public may not use the utility services of the State Capitol Exterior other than restrooms; provided, however, the Director may authorize limited use of electrical service for the duration of ~~an Event or Exhibit~~ **Public Use** authorized by these rules. Utility services include, but are not limited to, electrical, sewage, water, heating, and geothermal services. The Director may terminate the use of utilities if such use interferes with the utility services of the State Capitol Exterior or the equipment or apparatus using utility service fails to comply with applicable rules or codes. (3-27-13)()

315. LAW ENFORCEMENT AND FACILITY EXIGENCY.

In case of a fire, bomb threat, utility malfunction, structural failure or other unforeseen emergency or threat endangering public safety or health, or endangering public property, law enforcement, security personnel and state employees or officials may direct all persons off of the State Capitol Exterior and delay or postpone any ~~Event, Exhibit, Public Use or other~~ activity until the emergency or threat is abated. (3-27-13)()

(BREAK IN CONTINUITY OF SECTIONS)

317. HEALTH, SAFETY AND MAINTENANCE OF STATE FACILITIES.

01. Clean Condition After Use. Users shall leave the State Capitol Exterior in reasonably clean condition after use, including depositing all trash in designated receptacles. (3-27-13)

02. Items Return to Proper Location. Users shall return all items including, but not limited to, movable furniture and trash receptacles, to their location at the conclusion of the ~~E~~event or ~~E~~xhibit. (3-27-13)()

03. Public Health. No person shall excrete human waste at the State Capitol Exterior except in designated restroom facilities. For purposes of this section, excrete means the discharge of human waste from the body, including the acts of defecation and urination. For purposes of this section, human waste means human feces or human urine. (3-27-13)

04. Fireworks. No person shall possess or use fireworks on the State Capitol Exterior. (3-27-13)

318. -- 399. (RESERVED)

400. PERMITS.

01. Use Without a Permit. A Permit grants a reservation providing priority for use of the area specified in the Permit as set forth in Subsection 200.04 of these rules. Applicants desiring to obtain a Permit for use of the State Capitol Exterior outside of the Permit areas, hours or duration or who have not submitted an application within the application period may use the State Capitol Exterior, subject to the provisions of these rules, on a first-come, first used basis. Permits will be issued to groups of two (2) or more people. (~~3-27-13~~)()

02. Permit Areas, Hours and Duration, and Number of Participants. (~~3-27-13~~)()

a. The Director will consider and grant Permits only for ~~Event or Exhibit~~ Public Use of the Jefferson Street Steps. (~~3-27-13~~)()

b. The Director will issue Permits reserving use of the Jefferson Street Steps only for the period between the hours of 7 a.m. and 6 p.m. on State Business Days. (~~3-27-13~~)()

c. The duration of a Permit will not exceed four (4) consecutive hours. (3-27-13)

d. The Director will issue a Permit only for Public Use involving two (2) or more persons. ()

03. Application Period. Permit applications must be received and complete at least ~~five~~ two (~~5~~2) State Business Days prior to the requested date and time period of the Permit. The Department will not accept applications submitted more than six (6) months prior to the requested date of the Permit. (~~3-27-13~~)()

04. Validity. Permits are valid only for the dates, times, and locations specified on the Permit as approved by the Director. (3-27-13)

05. Distribution. Permits shall be granted by the Director on a first-come, first-served basis, subject to Subsection 200.03 of these rules. Only one (1) Permit will be granted for the Jefferson Street Steps during any period of time. (3-27-13)

06. Application Requirements. Applications for a Permit shall be in writing on a form prescribed by the Director and available at the office of the Division of Public Works and the Department's website. The Director will only process applications that are complete and signed by the individual making a request or an authorized representative of the entity or organization making the request. The Director may make reasonable inquiry to confirm the accuracy of the application and the authority of the party signing the application. (3-27-13)

07. Fees and Costs. There is no fee for a Permit. Individuals, entities, and organizations may be charged for direct costs as set forth in the Permit including, but not limited to, the following: trash collection, janitorial services, and security services. (3-27-13)

08. Conditions. The Director may impose reasonable conditions on the use of the State Capitol Exterior in the Permit for the purpose of protecting persons and property. Conditions may include the acquisition of liability insurance and a bond as security for costs arising from the use. (3-27-13)

09. Transferability. Permits are non-transferable. (3-27-13)

401. APPROVALS AND DENIALS OF A PERMIT APPLICATION.

01. Period for Approval or Denial. The Department will approve or deny a complete application within two (2) State Business Days of the submission of the application. ~~The failure of the Department to issue a Permit within (2) State Business Days of the submission of a complete application shall be deemed a denial of the application.~~ (3-27-13)()

02. Basis for Denial. Permits may be denied for one (1) or more of the following: (3-27-13)

a. A Permit has been granted for all or part of the requested location during all or part of the requested time period. (3-27-13)

b. A public entity or official will be using all or part of the requested location during all or part of the requested time period. (3-27-13)

c. The requested use would violate any provision of these rules or applicable law. (3-27-13)

d. These rules do not authorize the use for the location or times requested or do not authorize the issuance of a Permit for the location requested. (3-27-13)

e. The Permit application is incomplete, contains a material falsehood, or contains a material misrepresentation. (3-27-13)

f. The Permit applicant has not certified that the applicant will comply with these rules or applicable law. (3-27-13)

g. The party signing the application is not legally competent to bind themselves or the organization or entity submitting the application. (3-27-13)

h. The individual, organization or entity submitting the application: (3-27-13)

i. Failed to pay costs or damages arising from an earlier use of any state facility; (3-27-13)

ii. Made a material misrepresentation regarding the nature or scope of the use on a

- prior Permit application; (3-27-13)
- iii. Violated the terms of prior Permits issued to the individual, organization or entity; (3-27-13)
or (3-27-13)
- iv. Violated any applicable law in the course of ~~a~~ previous ~~Event or Exhibit~~ **Public Use of state of Idaho facilities.** (~~3-27-13~~)()
- i. The requested use would cause a clear and present danger to the orderly processes of state of Idaho government or to the use of the State Capitol Exterior due to advocacy of: (3-27-13)
- i. The violent overthrow of the government of the United States, the state of Idaho, or any political subdivision thereof; (3-27-13)
- ii. The willful damage or destruction, or seizure and subversion of public property; (3-27-13)
- iii. The forcible disruption or impairment of or interference with the regularly schedule functions of the state of Idaho; (3-27-13)
- iv. The physical harm, coercion, intimidation or other invasions of the lawful rights of public officials or the public; or (3-27-13)
- v. Other disorders of a violent nature. (3-27-13)

(BREAK IN CONTINUITY OF SECTIONS)

500. LIABILITY AND INDEMNIFICATION.

01. User Retains Liability. Individuals, entities, and organizations using the State Capitol Exterior are responsible and liable for all suits, damages, claims or liabilities arising from **their** use of the State Capitol Exterior. The state of Idaho shall have no liability for injury to private property, including posters, placards, banners, signs, equipment, tables, materials, and displays on the State Capitol Exterior. (~~3-27-13~~)()

02. State Liability. Nothing in these rules shall extend the liability of the state of Idaho beyond that provided in the Idaho Tort Claims Act, Title 6, Chapter 9, Idaho Code. (3-27-13)

03. Indemnification. Any individual, entity or organization permitted to use the State Capitol Exterior is deemed to agree to indemnify the state of Idaho from and against all claims, demands, actions or causes of action, together with any and all losses, costs or related expenses asserted by any group or persons for bodily injury or damage to property arising out of or in any way connected with the **permittee's** use of the State Capitol Exterior. (~~3-27-13~~)()

04. No Endorsement. The grant of a Permit and any action or inaction of the Department shall not imply endorsement or approval by the state of Idaho of the actions, objectives or views of participants in ~~an Event or Exhibit~~ Public Use of the State Facilities.
(~~3-27-13~~)()

IDAPA 52 - IDAHO STATE LOTTERY COMMISSION

52.01.02 - GAMING RULES OF THE IDAHO STATE LOTTERY COMMISSION

DOCKET NO. 52-0102-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-7714, Idaho Code.

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

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the October 2, 2013 Idaho Administrative Bulletin, [Vol. 13-10, pages 516 through 524](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jeffrey Anderson, Executive Director, at (208) 334-2600.

DATED this 24th day of October, 2013.

Jeffrey Anderson
Executive Director
Idaho State Lottery
1199 Shoreline Ln., Ste. 100
P. O. Box 6537
Boise, ID 83707-6537
Phone: (208) 334-2600
Fax: (208) 334-3522

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE 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 67-7714, 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 October 16, 2013.

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:

Last legislative session (2013), legislation was passed that modified certain statutes in Chapter 77, Title 67 (Bingo/Raffle Act) regarding record retention requirements, and including removal of Holiday Christmas Tree Fundraising, among others. Corresponding rule changes were not promulgated at that time, but are now required in order to render them consistent with that law change. The Lottery needs to amend applicable administrative rules to coincide with this change in law and render its rules consistent with now-existing law. They are currently inconsistent, instead mirroring the applicable law prior to the passing of SB 1127 last session. This rulemaking amends IDAPA 52.01.02 to render the rules consistent with Sections 67-7709 and 67-7710, Idaho Code, regarding record retention requirements, removal of Holiday Christmas Tree Fundraising among others. This rulemaking simply renders applicable rules consistent with Idaho Code.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

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(2), Idaho Code, it is not feasible or necessary to conduct negotiated rulemaking for this rulemaking. The changes are proposed simply to render applicable rules consistent with applicable Idaho Code. Legislation was passed last session (2013) that modified record retention requirements, removed Holiday Christmas Tree Fundraising, among others. Corresponding rule changes were not promulgated at that time, but are now required in order to render them consistent with the statute changes. There is nothing to be negotiated.

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 Jeffrey Anderson, Executive Director, at (208) 334-2600.

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 23, 2013.

DATED this 30th day of August, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 52-0102-1301

010. DEFINITIONS (RULE 10).

As used in these rules, each word defined in this Section has the meaning given here unless a different meaning is clearly required from context: (4-2-08)

01. Audit. The review of documents or other records pertaining to operation of bingo or raffles, including, but not limited to, ledgers, bank statements, checks and deposit records, nightly logs, receipts, register tapes, computer records, contracts and leases, records showing use of all revenues for charitable activities, and tax records, by representatives of the Lottery, the attorney general, other law enforcement agencies, or independent auditors. (2-19-09)

02. Autodaubing Features or Autodaubing. Electronic bingo card daubers, including software or equipment interfaced with electronic bingo cards that automatically daub the numbers as called without requiring the player to manually input the number called. (4-2-08)

03. Bingo. The traditional game of chance using a card with five (5) rows and five (5) columns containing numbers from a range of one (1) to seventy-five (75) and played for a prize determined before the game begins, as elaborated in Subsection 010.03 of these rules, and other games authorized by Title 67, Chapter 77, Idaho Code, and by these rules, for example, "U-Pick Em." See Section 67-7702(1), Idaho Code: (4-2-08)

a. Bingo Cards, Regular. Regular bingo cards (reusable or disposable) contain five (5) rows and five (5) columns of squares arranged in a five-by-five (5x5) grid; each square is imprinted with randomly placed numbers from a range of one (1) through seventy-five (75), except for the center square, which may be a free space. The letters "B-I-N-G-O" must also be imprinted on the card in order with one (1) letter above each of the five (5) columns (the letter "B"

above the first column and so on). (4-2-08)

b. Bingo Cards, Electronic, or Face. An electronic facsimile of a regular bingo card. See Section 67-7702(6), Idaho Code. (4-2-08)

c. Play Method. Players who have paid consideration for the cards that they are holding compete for a prize by covering numbers on their cards when designators with the same number are randomly drawn and called. The balls or other designators in the selection device are numbered in the same manner as the possible numbers on the bingo cards, from one (1) through seventy-five (75). The winner is the first player to cover a predetermined arrangement of numbers on the players' cards, for example, any row, column or diagonal of the five (5) rows and (5) columns and two (2) diagonals of the bingo card. Upon approval of the Bingo-Raffle Advisory Board there may be other forms of bingo games allowed, such as, but not limited to, Blackouts, Bonanza, and "U-Pick Em" games. The game begins when the first number is called and ends when a player has covered the previously designated arrangement and declares a bingo. Each winning card must be independently verified by a floor worker and another player by calling back the winning combination of numbers in the predetermined arrangement or by entering the serial number printed on the bingo card into an electronic verification system that can verify whether a card is a winner. (4-2-08)

d. Exclusions from Bingo. Bingo does not include "instant bingo," which is a game of chance played by the selection of one (1) or more prepackaged cards, with the winner determined by the appearance of a preprinted winning designation on the card. (4-2-08)

04. Bingo-Raffle Advisory Board or Board. The board established and appointed according to Sections 67-7702(2), 67-7703, and 67-7704, Idaho Code. (4-2-08)

05. Blackout. A game of bingo where all numbers are covered on a bingo card. This game is also referred to as "coverall." (4-2-08)

06. Bonanza. A game of bingo that is played on a prefolded card or on another kind of card on which the numbers are not revealed until the card is purchased and in which a designated number of balls are emitted from the machine in the usual manner and displayed. If there is no "Bingo" called on these numbers, the game may continue with one (1) additional ball emitted at a time until there is a winner. (4-2-08)

07. Charitable Contribution Acknowledgement Report Form or CCARF. A form, prepared by the Director, upon which the recipient of a donation for a charitable purpose must indicate the charitable purpose for which the donation will be used; the name, address, and phone number of the person receiving the donation; and acknowledgement that the recipient will provide any and all information necessary in order for the Director or his representatives to verify that the donation was used for a charitable purpose, as well as any other information needed by the Director to assure that the donation is used for a charitable purpose. See Section 67-7709(2), Idaho Code. (4-2-08)

08. Charitable Donation Reporting Form. A form prepared by the Director, upon which each licensed organization shall record all charitable donations made from the proceeds of charitable bingo or raffles held during the license year on which they are reporting. This report

shall require the names, addresses, contact person's name, contact person's telephone number, dollar amount and purpose of the donation. This report will be submitted to the Lottery along with the Annual Bingo Report or Annual Raffle Report and will be subject to audit as defined in Subsection 010.01. (2-19-09)

- 09. Charitable Organization.** See definition in Section 67-7702, Idaho Code. (2-19-09)
- 10. Charitable Purpose.** A purpose of supporting a bona fide charitable organization, as defined by Section 67-7702(3), Idaho Code. (4-2-08)
- 11. Commission.** The Idaho State Lottery Commission established and appointed according to Sections 67-7402, 67-7404(2) and 67-7405, Idaho Code. See Section 67-7702(4), Idaho Code. (4-2-08)
- 12. Concessions.** Food and beverages or other incidental items (for example, caps or tee-shirts) unrelated to gaming that are sold to players at bingo games. (4-2-08)
- 13. Director.** The Director of the Idaho State Lottery appointed and confirmed according to Section 67-7407, Idaho Code. (4-2-08)
- 14. Disposable Paper Bingo Card.** A non-reusable, paper bingo card. (4-2-08)
- 15. Distributor.** Any person who purchases or otherwise obtains or supplies equipment for use in conducting gaming activities, including, but not limited to, bingo or raffles, from any person or entity, and sells or otherwise furnishes such equipment or supplies to any person or entity who engages in gaming activity. (4-2-08)
- 16. Duck Race.** A charitable raffle as defined in Section 67-7702(5), Idaho Code. (4-2-08)
- 17. Electronic Bingo Device.** An electronic device used to monitor bingo games as defined by Section 67-7702(7), Idaho Code. Electronic bingo devices may be used to monitor bingo cards ("mind cards") only if they meet the requirements of Section 67-7702(7)(a), Idaho Code. No devices described in Section 67-7702(7)(b), Idaho Code, can be lawfully used in a bingo operation. (4-2-08)
- 18. Electronic Gaming Devices.** Gaming or gambling devices electronically operated by inserting a coin or token and then pulling a handle or pushing a button to activate the game. Electronic gaming devices can generate points or payout slips for accumulated wins. (4-2-08)
- 19. Gaming.** Gambling as defined in Section 18-3801, Idaho Code, including gaming authorized by Title 67, Chapters 74 and 77, Idaho Code. (4-2-08)
- 20. Gross Revenues.** See definition in Section 67-7702, Idaho Code. (2-19-09)
- a.** For Bingo. All moneys paid by players during a bingo game or session of play bingo, including fees for use of electronic bingo cards or electronic bingo devices, but excluding

money paid for concessions. Gross revenues are calculated before any deductions for prizes or other expenses. (4-2-08)

b. For Raffles and Other Gaming Authorized by Title 67, Chapter 77, Idaho Code. All moneys or other value paid to or due to any operator of a raffle or other gaming authorized by Title 67, Chapter 77, Idaho Code, activity for any chance taken or other fees for participation in the raffle or other gaming activity. Gross revenues are calculated before any deductions for prizes or other expenses. (4-2-08)

21. Hard Bingo Cards. Reusable bingo cards with sliding windows or shutters to cover the numbers on the cards. Hard cards are legal in sessions with less than ten thousand dollars (\$10,000) of annual gross revenue or for special occasions. (4-2-08)

~~**22. Holiday Christmas Tree Fundraiser.** A charitable game played by persons bidding on decorated holiday trees, as defined by Section 67-7702(9), Idaho Code. (4-2-08)~~

232. Host System. See definition in Section 67-7702, Idaho Code. (2-19-09)

243. Instant Bingo. A Lottery game played by the use of premarked cards which, when opened, scratched or otherwise revealed, determine whether the cardholder is a winner without any competition among players. "Instant Bingo" is not a game of "Bingo" as defined by these rules. (4-2-08)

254. License. A permission issued by the Director of the Lottery to operate bingo games or raffles or to manufacture, sell, distribute, furnish or supply gaming machines, equipment or material. (4-2-08)

265. Licensed Game Operator. A person who qualifies as a nonprofit or charitable organization who may operate bingo or raffles and who is licensed pursuant to Section 67-7711, Idaho Code. (4-2-08)

276. Licensed Vendor. A person who manufactures, sells, distributes, furnishes or supplies gaming machines, equipment or material who is licensed pursuant to Section 67-7715, Idaho Code. (4-2-08)

287. Lottery. The Idaho State Lottery created by Section 67-7402, Idaho Code, and, as context requires, the Lottery Commission and the Lottery's officers and employees. (4-2-08)

298. Manufacturer. Any person who fabricates or assembles a completed piece of gaming equipment or pieces of gaming equipment, or supplies completed gaming equipment, or pieces of gaming equipment for use in gaming activities, including, but not limited to, bingo and raffles, and who sells or otherwise furnishes the completed gaming equipment or pieces of gaming equipment to any distributor, operator, or retail outlet. (4-2-08)

~~**3029. Net Proceeds of a Charitable Raffle.** The gross revenues of a charitable raffle less the cost of prizes awarded. Net proceeds of a duck race mean gross revenues less the cost of prizes awarded and the rental cost of the ducks used in the race (if there are rental costs). See Section 67-7710(3), Idaho Code. *Net proceeds of a holiday Christmas tree fundraiser mean the*~~

~~gross revenues less the costs of procuring the tree or other prizes. See Section 67-7710(3), Idaho Code.~~ Donated prizes are considered to have no cost and do not reduce the receipts when calculating net proceeds. (4-2-08)()

- 340. Nonprofit Organization.** See definition in Section 67-7702, Idaho Code. (2-19-09)
- 321. Organization.** A charitable organization or a nonprofit organization. (2-19-09)
- 332. Person.** See definition in Section 67-7702, Idaho Code. (2-19-09)
- 343. Raffle.** An event in which prizes are won by random drawings or other selections of a ticket, duck or other means of identifying the one (1) or more persons purchasing chances. See Section 67-7702(14), Idaho Code. Duck races ~~and holiday Christmas tree fundraisers~~ are a forms of raffles. See Sections 67-7702(5) and 67-7702(9), Idaho Code. (4-2-08)()
- 354. Reusable Bingo Cards.** Bingo cards constructed out of a durable material that use sliding windows or shutters or chips to cover the numbers and that can be reused from one (1) game to another. (4-2-08)
- 365. Separate Bank Account.** A bank account **in the name of, and controlled by, a charitable or nonprofit organization** established for purposes of complying with the accounting requirements of Section 67-7709(1), Idaho Code, regarding accounting for revenues and disbursements for bingo operations. All gross revenues received in connection with licensed bingo games must be placed in the separate bank account. Concessions and other moneys received (if any) from non-gaming revenues should not be deposited in the separate bank account. (4-2-08)()
- 376. Session.** A period of time not to exceed eight (8) hours in any one (1) day in which players are allowed to participate in bingo games operated by a charitable or nonprofit organization. See Sections 67-7702(15) and 67-7708, Idaho Code. (4-2-08)
- 387. Site System.** See definition in Section 67-7702, Idaho Code. (2-19-09)
- ~~**39. Special Committee.** Persons (including officers and directors, if so designated) listed on an organization's application for a license who are designated to be responsible for insuring that a bingo game or bingo session conducted by that organization will be run according to the requirements of statute and of these rules. If no persons are designated as a special committee, the members of the governing body of the applicant will be held responsible for the operations of the bingo games and sessions or the operations of the raffle. See Section 67-7711(3), Idaho Code. (4-2-08)~~
- ~~**40. Special Permit.** A permit that can be obtained by an unlicensed charitable organization that qualifies the organization to operate an exempt bingo operation. This permit allows a qualified organization to operate bingo games at a state or county fair for the duration of the fair. See Section 67-7702(17), Idaho Code. (4-2-08)~~
- 4138. Tracking.** The documentation of sales by sequentially numbered bingo paper or

numbered tickets in raffles. See Section 67-7709(3), Idaho Code. (4-2-08)

4239. U-Pick Ems. A game where players select their own numbers on a two (2) part duplicated bingo card. One (1) copy is retained by the player and used as a bingo card. Numbers are called until there is a winner. The winner is determined by the first player to cover the numbers on a “U-Pick-Em” card. (4-2-08)

430. Vendor. See definition in Section 67-7702, Idaho Code. (2-19-09)

(BREAK IN CONTINUITY OF SECTIONS)

103. MEMBERS OF ~~SPECIAL COMMITTEE~~ ORGANIZATION IN ATTENDANCE -- TRAINING OF EMPLOYEES (RULE 103).

At least one (1) member or representative of the licensed organization must be in attendance at each session of bingo to supervise all bingo-related activities of a licensed organization. See Section 67-7711(3), Idaho Code. All bingo game employees, volunteers, and managers of all organizations, whether licensed or unlicensed, must be trained in the proper conduct of the game and the control of funds. (~~7-1-97~~)()

(BREAK IN CONTINUITY OF SECTIONS)

105. MINORS (RULE 105).

Persons under the age of eighteen (18) years are prohibited from playing bingo in a game in which a cash prize is offered, or where the prize exceeds twenty-five dollars (\$25) in value for merchandise, or where any merchandise is redeemable, in whole or in part, for cash, ~~or in a game operated by a licensed charitable or non-profit organization~~. See Section 67-7707(2), Idaho Code. Bingo operators may allow minors to work in a bingo game or session as per local house rules. (~~3-30-01~~)()

106. TRACKING REQUIREMENTS IN GAMES USING PAPER BINGO CARDS (RULE 106).

01. Bingo Paper -- For Whom Required. All licensed organizations operating bingo sessions that use paper bingo cards and all organizations exempt from licensing under Section 67-7713, Idaho Code, that use paper bingo cards must track their bingo sales for each session by using sequentially numbered/colored bingo paper. Each such organization must keep a ledger of the numbers of all bingo papers used. The non-reusable colored paper cards must be manufactured with a pre-printed series and a pre-printed serial number on each card. These cards may be assembled in multiple card sheets, single sheets, or packets. A sequential series and serial number must be printed on each individual card. (4-2-08)

02. Tracking by Game For Bingo Paper. The tracking may vary according to games

sold at each session (packets, specials, singles, six (6) ons, three (3) ons, etc.) and may be designated by game name or color of paper. (4-2-08)

03. Tracking By Bingo Paper Packet. If sales are completed by packet, then those packets must not be separated for sale as singles. Individual games or packets sold must be recorded sequentially for effective tracking. The tracking records must be retained with permanent records. Tracking records are not required to be submitted with the Annual Bingo Report form. (4-2-08)

04. Late Players When Bingo Paper Used. Packets of bingo paper sold to late players must have the previously played games sheets removed and voided. The tracking must account for sheets removed and voided. (4-2-08)

05. Designation of Bingo Paper Color For Games. Each game is assigned a particular color of paper card. Other colors will not be accepted. (4-2-08)

06. Documentation For Bingo Paper. All bingo paper must be tracked as either sold, damaged, donated, or omitted from the original distributor or manufacturer. Invoices from the distributor or manufacturer and other documentation of transactions involving bingo funds must be kept with the *permanent* records for that bingo operation. Operators may contact the Lottery Security Division for clarification concerning proper documentation to track sold, damaged, donated, or omitted bingo paper. (~~4-2-08~~)()

(BREAK IN CONTINUITY OF SECTIONS)

122. GENERAL LEDGER (RULE 122).

01. Establishment of General Ledger. A general ledger must be established to account separately for the bingo operation. Ledgers must track all transactions for the funds generated from bingo. (3-30-01)

02. Documentation. The accounting of revenues from sales of bingo cards or other entry fees and all disbursements must be documented. The accounting should include, but not be limited to, total prize payouts per session, and bingo related expenses per session, charitable contributions per session, wages, date and purpose or payee for each entry. (7-1-97)

03. Annual Report. Copies of general ledgers must accompany the Annual Bingo Report filed with the Lottery. Copies of the Charitable Contribution Acknowledgement Report Forms and Charitable Donation Reporting Form shall also accompany the Annual Bingo Report. All disbursements shall be recorded in the general ledger. (2-19-09)

04. Retention of Records. An accounting of all gross revenues and disbursements required by statute and these rules must be retained in *permanent* records with the organization **for a period of five (5) years**, including the date and amount of each transaction, as well as the name and address of each payee for all prize payments exceeding one hundred dollars (\$100). A copy of

each CCARF and the Charitable Donation Reporting Form shall be retained in permanent records of the organization. (2-19-09)()

123. ANNUAL REPORT (RULE 123).

01. When Due. Every licensed charitable or nonprofit organization conducting bingo games shall prepare an annual report within thirty (30) days after the close of its license year and shall file the annual report with the Lottery. See Section 67-7709(2), Idaho Code. (3-30-01)

02. Information Required By Forms. The nightly reports, receipts, winner records, and payouts must be documented and kept with the organization's permanent records for ~~three~~ **five (5)** years. Any further information required by the forms prescribed by the Lottery pursuant to statute and rule. (7-1-97)()

03. Independent Audit. Organizations that exceed two hundred thousand dollars (\$200,000) in annual gross revenue from bingo games, raffle events, or bingo games and raffles combined must submit an independent audit ~~from performed by~~ a **certified** public accountant ~~or accounting firm licensed in Idaho and who meets peer review requirements set forth by the Idaho State Board of Accountancy~~. This independent audit must be submitted within ninety (90) days of the end of the licensed organization's license year. (3-30-01)()

(BREAK IN CONTINUITY OF SECTIONS)

125. ACCOUNTING OF REVENUES AND EXPENSES (RULE 125).

01. Deposit of Receipts. Bingo funds received in check form must be payable to the organization. All funds must be deposited in a Separate Bank Account ~~for bingo funds~~. (7-1-97)()

02. Ledger Entries and Receipts For Expenses. All ledger entries must track disbursements of cash and checks. Expenses must be documented with receipts. The receipts shall include the payee's name and address, date, and an authorized signature from the licensed organization. (7-1-97)

03. Recording of Wages. Wages paid must be recorded on expense records as gross amounts before withholding of taxes or other withholding and net amount paid, with each item of withholding shown. Wages paid must be documented with copies of pay stubs, or other records showing gross wages and withholding. (7-1-97)

04. Submission With Annual Report. Copies of ledgers containing the documentation of all transactions must be submitted with the Annual Bingo Report. Inventory tracking of sequentially numbered paper must be retained in permanent records **for a period of five (5) years** and kept available for examination. Do not submit these records with the annual bingo report. All documents must be legible and compiled in an orderly manner. (7-1-97)()

126. INSPECTION OF BOOKS (RULE 126).

All financial books, papers, records and documents of an organization shall be kept as required by these rules and shall be open to inspection by the county sheriff of the county where the bingo games were held, or the chief of police of the city where the bingo games were held, or the prosecuting attorney of the county where the bingo games were held, or the attorney general or the Lottery, or any of their agents, at reasonable times and during reasonable hours. All records must be kept for ~~three~~ five (~~3~~5) years. ~~(7-1-97)()~~

(BREAK IN CONTINUITY OF SECTIONS)

203. MAXIMUM PRIZES (RULE 203).

The maximum aggregate value of cash prizes that may be offered or paid for any single raffle event, which is not a duck race ~~or a holiday Christmas tree fundraiser~~, is one thousand dollars (\$1,000). There is no limit on the maximum value of merchandise that may be offered as raffle prizes if the merchandise is not redeemable for cash. There is no limit on the maximum amount of the aggregate cash prizes for a duck race if the cash prize is underwritten by insurance, otherwise the maximum aggregate cash prize for a duck race is one thousand dollars (\$1,000). ~~There is no limit on the maximum value of a tree that may be raffled in a holiday Christmas tree fundraiser.~~ There is no limit on the maximum value for the merchandise used as prizes for a duck race ~~or a holiday Christmas tree fundraiser~~ if the merchandise is not redeemable for cash. See Section 67-7710(2), Idaho Code. ~~(4-2-08)()~~

(BREAK IN CONTINUITY OF SECTIONS)

207. INDEPENDENT AUDIT OF LARGE RAFFLES (RULE 207).

Every charitable or non-profit organization whose gross annual revenues exceed two hundred thousand dollars (\$200,000) from the operation of raffles shall provide the Commission with a copy of an annual report of raffle events. The audit shall be performed by ~~an independent a~~ certified public accountant licensed in Idaho and who meets the peer review requirements set forth by the Idaho State Board of Accountancy. ~~The audit must be~~ submitted within ninety (90) days after the end of the organizations license year. ~~(3-30-01)()~~

(BREAK IN CONTINUITY OF SECTIONS)

302. INFORMATION TO BE PROVIDED IN APPLICATION (RULE 302).

01. Background Check of Applicants. The application for an initial license and for a renewal license to operate a bingo game or to conduct a raffle will be reviewed and relevant background investigations will be conducted on all persons listed on the application as officers, directors or members of the ~~special committee~~ charitable or nonprofit organization. ~~The members~~

~~of the governing board will be considered the de facto special committee if the governing board has not designated a special committee in its application. See Section 67-7711(3), Idaho Code.~~ The signature from the organization's representative on the application gives the Lottery authority to conduct **the required** investigations ~~of members of the special committee~~. The persons listed on the application must be officers or directors of the organization ~~or members of the special committee~~ applying for a license **and the application must be signed by an officer of the organization.** (4-2-08)()

02. Proper Identification. The application must list the name, address, date of birth, driver's license number and social security or tax identification number of the applicant, if applicable. If the applicant is a corporation, association or similar legal entity, the application must also list the full name, current home address and phone number, date of birth, social security number, driver's license number and state of issuance, of each listed officer ~~and~~ director ~~or member of the special committee~~ in order to conduct background investigations. See Section 67-7711(2)(a) and (b), Idaho Code. (4-2-08)()

03. Charitable Organizations. The application of a charitable organization must include a copy of the application for recognition of exemptions and a determination letter from the Internal Revenue Service that indicates that the organization is a charitable organization and that states the section of the tax code under which the exemption is granted, except that if the organization is a state or local branch, lodge, post of chapter or a national organization, a copy of the determination letter of the national organization will satisfy this requirement. See Section 67-7711(2)(c)(i), Idaho Code. The applicant must also provide verifiable documentation to prove charitable function, purpose and activities. Acceptable documentation includes, but is not limited to, meeting minutes, donation documentation, and membership list. (2-19-09)

04. Incorporated Nonprofit Organizations. The application of an incorporated nonprofit organization must include a copy of the certificate of existence issued by the secretary of state pursuant to Title 30, Chapter 3, Idaho Code, establishing the organization's good corporate standing in the state. See Section 67-7711(2)(c)(ii), Idaho Code. The applicant must also provide verifiable documentation to prove charitable function, purpose and activities. Acceptable documentation includes, but is not limited to, meeting minutes, donation documentation, and membership list. (2-19-09)

05. Locations. The application must list the location or locations at which the applicant will conduct bingo games or bingo sessions or drawings for raffles. See Section 67-7711(2)(d), Idaho Code. (7-1-97)

06. Raffle Drawings. **Raffle drawings must be held in Idaho and conducted within the license year for licensed organizations or within twelve (12) months from the date the first ticket was sold for unlicensed organizations.** ()

067. License Year and Fiscal Year. An organization may apply for a license to coincide with the organization's fiscal year. See Section 67-7711(5), Idaho Code. (4-2-08)

078. Failure to Provide Information. Failure to provide all information required for an application may result in a delay in considering an application or denial or dismissal of an application for a bingo/raffle license. See Section 67-7711(1), Idaho Code. (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

306. SUSPENSION OR REVOCATION OF LICENSE -- CIVIL AND CRIMINAL PENALTIES (RULE 306).

Violation of the bingo and raffle statutes or of these bingo/raffle rules or of any conditions of a license may be grounds for administrative, civil or criminal actions, including, but not limited to, placement on probationary status, suspension of operations, license revocation, penalties, or fines. See Section 67-7707, Idaho Code. See also Sections 500 through 504 of these rules.

~~(4-2-08)~~()

307. EXEMPTION FROM LICENSING AND LICENSING FEES (RULE 307).

Section 67-7713, Idaho Code, exempts charitable and non-profit organizations operating certain low-stakes bingo or raffle games from licensing.

(4-2-08)

01. Low-Stakes Bingo. A charitable or nonprofit organization conducting a bingo game does not need to obtain a license if its gross annual bingo sales (gross revenues from bingo operations) are less than ten thousand dollars (\$10,000).

(4-2-08)

02. Low-Stakes Raffle. A charitable or nonprofit organization does not need to obtain a license to conduct a raffle if the maximum aggregate value of merchandise awarded as prizes for the raffle does not exceed ~~one~~ five thousand dollars (~~\$1~~5,000).

~~(4-2-08)~~()

03. Exemption From Licensing Not Exemption From Rules. Organizations exempt from licensing under this rule must still comply with applicable requirements of statute and bingo/raffle rules. This information is available by contacting the Lottery.

(7-1-97)