

# IDAHO ADMINISTRATIVE BULLETIN

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November 7, 2001 -- Volume 01-11

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# Preface

*The Idaho Administrative Bulletin is published once each month by the Department of Administration, Office of the Administrative Rules Coordinator, pursuant to Section 67-5203, Idaho Code. The Bulletin is a compilation of all administrative rulemaking documents in Idaho. The Bulletin publishes the official text notice and full text of such actions.*

*State agencies are required to provide public notice of rulemaking activity and invite public input. The public receives notice of a rulemaking activity through the Idaho Administrative Bulletin and the Legal Notice published monthly in local newspapers. The Legal Notice provides reasonable opportunity for public input, either oral or written, which may be presented to the agency within the time and manner specified in the Legal Notice. After the comment period closes, the agency considers fully all information submitted in regard to the rule. Comment periods are not provided in temporary or final rulemaking activities.*

## **CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN**

*The Bulletin is cited by year and issue number. For example, Bulletin 00-1 refers to the first Bulletin issued in calendar year 2000, Bulletin 01-1 refers to the first Bulletin issued in calendar year 2001, etc. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. 1 refers to January; Volume No. 2 refers to February; and so forth. Example: The Bulletin published in January of 2001 is cited as Volume 01-1, the December 1999 Bulletin is cited as Volume 99-12. The March 2000 Bulletin is cited as Volume 00-3.*

## **RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE**

*The Idaho Administrative Code is published once a year and is a compilation or supplemental compilation of all final and enforceable administrative rules in effect in Idaho. In an effort to provide the reader with current, enforceable rules, temporary rules are also published in the Administrative Code. Temporary rules and final rules that have been adopted and approved by the legislature during the legislative session, and published in the monthly Idaho Administrative Bulletin, supplement the Administrative Code. Negotiated, proposed, and pending rules are not printed in the Administrative Code and are published only in the Bulletin.*

*To determine if a particular rule remains in effect, or to determine if a change has occurred, the reader should refer to the **Cumulative Index of Administrative Rulemaking**, printed in each Bulletin.*

## **TYPES OF RULES PUBLISHED IN THE ADMINISTRATIVE BULLETIN**

*The state of Idaho administrative rulemaking process comprises five distinct activities; Proposed, Negotiated, Temporary, Pending, and Final rulemaking. In the majority of cases, the process begins with proposed rulemaking and ends with final rulemaking. The following is a brief explanation of each type of administrative rule.*

### **NEGOTIATED RULE**

*Negotiated rulemaking is a process in which all interested parties and the agency seek a consensus on the content of the rule. Agencies are encouraged to proceed through this informal rulemaking whenever it is feasible to do so. Publication of the text in the Administrative Bulletin by the agency is optional. This process should lead the*

rulemaking to the temporary and/or proposed rule stage.

### PROPOSED RULE

*A proposed rulemaking is an action by an agency in which the agency is proposing to amend or repeal an existing rule or to adopt a new rule. Prior to the adoption, amendment, or repeal of a rule, the agency must publish a notice of proposed rulemaking in the Bulletin. The notice of proposed rulemaking must include:*

- a) the specific statutory authority for the rulemaking including a citation to a specific federal statute or regulation if that is the basis of authority or requirement for the rulemaking;*
- b) a statement in nontechnical language of the substance of the proposed rule, including a specific description of any fee or charge imposed or increased;*
- c) the text of the proposed rule prepared in legislative format;*
- d) the location, date, and time of any public hearings the agency intends to hold on the proposed rule;*
- e) the manner in which persons may make written comments on the proposed rule, including the name and address of a person in the agency to whom comments on the proposal may be sent;*
- f) the manner in which persons may request an opportunity for an oral presentation; and*
- g) the deadline for public (written) comments on the proposed rule.*

*As stated, the text of the proposed rule must be published in the Bulletin. After meeting the statutory rulemaking criteria for a proposed rule, the agency may proceed to the pending rule stage. A proposed rule does not have an assigned effective date unless published in conjunction with a temporary rule docket. An agency may vacate a proposed rulemaking if it decides not to proceed further with the promulgation process.*

### TEMPORARY RULE

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

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

*If a rulemaking meets any one or all of the above requirements, a rule may become effective before it has been submitted to the legislature for review and the agency may proceed and adopt a temporary rule.*

*A temporary rule expires at the conclusion of the next succeeding regular session of the legislature unless the rule is approved, amended, or modified by concurrent resolution or when the rule has been replaced by a final rule.*

*In cases where the text of the temporary rule is the same as that of the proposed rule, the rulemaking can be done concurrently as a temporary/proposed rule. State law requires that the text of a proposed or temporary rule be published in the Administrative Bulletin. Combining the rulemaking allows for a single publication of the text.*

*An agency may rescind a temporary rule that has been adopted and is in effect if the rule is being replaced by a new temporary rule or has been published concurrently with a proposed rulemaking that is being vacated.*

### **PENDING RULE**

*A pending rule is a rule that has been adopted by an agency under the regular rulemaking process and remains subject to legislative review before it becomes a final, enforceable rule.*

*When a pending rule is published in the Bulletin, the agency is required to include certain information in the Notice of Pending Rule. This includes:*

- a) the reasons for adopting the rule;*
- b) a statement of any change between the text of the proposed rule and the pending rule with an explanation of the reasons for any changes;*
- c) the date the pending rule will become final and effective; and*
- d) an identification of any portion of the rule imposing or increasing a fee or charge.*

*Agencies are required to republish the text of the rule when substantive changes have been made to the proposed rule. An agency may adopt a pending rule that varies in content from that which was originally proposed if the subject matter of the rule remains the same, the pending rule is a logical outgrowth of the proposed rule, and the original notice was written so as to assure that members of the public were reasonably notified of the subject. It is not always necessary to republish all the text of the pending rule. With the permission of the Rules Coordinator, only the Section(s) that have changed from the proposed text are republished. If no changes have been made to the previously published text, it is not required to republish the text again and only the Notice of Pending Rule is published.*

### **FINAL RULE**

*A final rule is a rule that has been adopted by an agency under the regular rulemaking process and is in effect.*

*No pending rule adopted by an agency will become final and effective until it has been submitted to the legislature for review. Where the legislature finds that the agency has violated the legislative intent of the statute under which the rule was made, a concurrent resolution will be adopted rejecting, amending, or modifying the rule or any part thereof. A Notice of Final Rule must be published in the Idaho Administrative Bulletin for any rule that is rejected, amended, or modified by the legislature showing the changes made. A rule that has been reviewed by the legislature and has not been rejected, amended, or modified will become final with no further legislative action. No rule shall become final and effective before the conclusion of the regular or special legislative session at which the rule was submitted for review. However, a rule which is final and effective may be applied retroactively, as provided in the rule.*

### **AVAILABILITY OF THE ADMINISTRATIVE CODE AND BULLETIN**

*The Idaho Administrative Code and all monthly Bulletins are available for viewing and use by the public in all 44 county law libraries, state university and college and community college libraries, the state law library, the state library, the Public Libraries in Boise, Pocatello, Idaho Falls and Twin Falls, the Lewiston City Library, East Bonner County Library, Eastern Idaho Technical College Library, Ricks College Library, and Northwest Nazarene College Library.*

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## SUBSCRIPTIONS AND DISTRIBUTION

For subscription information and costs of publications, please contact the Department of Administration, Office of the Administrative Rules Coordinator, 650 W. State Street, Room 100, Boise, Idaho 83720-0306, telephone (208) 332-1820.

*The Administrative Bulletin* is an official monthly publication of the State of Idaho. Yearly subscriptions or individual copies are available for purchase.

*The Administrative Code*, is an annual compilation or supplemental compilation of all final and enforceable temporary administrative rules and includes tables of contents, reference guides, and a subject index.

*Individual Rule Chapters* and *Individual Rulemaking Dockets*, are specific portions of the Bulletin and Administrative Code produced on demand.

*Internet Access* - The Administrative Code and Administrative Bulletin, as well as individual chapters and dockets, are available on the Internet at the following address: <http://www2.state.id.us/adm/adminrules/>

**EDITOR'S NOTE:** All rules are subject to frequent change. Users should reference all current issues of the Administrative Bulletin for negotiated, temporary, proposed, pending, and final changes to all rules, or call the Office of the Administrative Rules at (208) 332-1820.

## HOW TO USE THE IDAHO ADMINISTRATIVE BULLETIN

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

### **IDAPA 38.05.01.060.02.c.ii.**

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

"IDAPA 38." refers to the Idaho Department of Administration.

"05." refers to Title 05 which is the Department of Administration's Division of Purchasing.

"01." refers to Chapter 01 of Title 05, "Rules of the Division of Purchasing".

"060." refers to Major Section 060, "Content of the Invitation to Bid".

"02." refers to Subsection 060.02.

"c." refers to Paragraph 060.02.c.

"ii." refers to Subparagraph 060.02.c.ii.

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## DOCKET NUMBERING SYSTEM

Internally, the Bulletin is organized sequentially using a rule docketing system. All rulemaking actions (documents) are assigned a "DOCKET NUMBER". The "Docket Number" is a series of numbers separated by a hyphen "-", (38-0501-0101). The docket numbers are published sequentially by IDAPA designation (e.g. the two-digit agency code). The following example is a breakdown of a typical rule docket:

### "DOCKET NO. 38-0501-0101"

"38-" denotes the agency's IDAPA number; in this case the Department of Administration.

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

"0101" denotes the year and sequential order of the docket submitted and published during the year; in this case the first rulemaking action of the chapter published in calendar year 2001.

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

### "(BREAK IN CONTINUITY OF SECTIONS)"

## INTERNAL AND EXTERNAL CITATIONS TO ADMINISTRATIVE RULES IN THE CODE AND BULLETIN

When making a citation to another Section or Subsection that is part of the same rule, a typical internal citation may appear as follows:

"...as found in Section 201 of this rule." OR "...in accordance with Subsection 201.06.c. of this rule."

It may also be cited to include the IDAPA, Title, and Chapter number also, as follows:

"...in accordance with IDAPA 38.05.01.201."

"38" denotes the IDAPA number of the agency.

"05" denotes the TITLE number of the agency rule.

"01" denotes the Chapter number of the agency rule.

"201" references the main Section number of the rule that is being cited.

Citations made within a rule to a different rule chapter (external citation) should also include the name of the Department and the name of the rule chapter being referenced, as well as the IDAPA, Title, and Chapter numbers. The following is a typical example of an external citation to another rule chapter:

"...as outlined in the Rules of the Department of Administration, IDAPA 38.04.04, 'Rules Governing Capitol Mall Parking.'"

## BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2001

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01-2	February, 2001	December 20, 2000	February 7, 2001	February 28, 2001
01-3	March, 2001	January 24, 2001	March 7, 2001	March 28, 2001
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01-10	October, 2001	<b>**August 22, 2001</b>	October 3, 2001	October 24, 2001
01-11	November, 2001	September 19, 2001	November 7, 2001	November 28, 2001
01-12	December, 2001	October 24, 2001	December 5, 2001	December 26, 2001

## BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2002

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02-2	February, 2002	December 19, 2001	February 6, 2002	February 27, 2002
02-3	March, 2002	January 23, 2002	March 6, 2002	March 27, 2002
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02-10	October, 2002	<b>**August 21, 2002</b>	October 2, 2002	October 23, 2002
02-11	November, 2002	September 18, 2002	November 6, 2002	November 27, 2002
02-12	December, 2002	October 23, 2002	December 4, 2002	December 25, 2002

*\*Last day to submit proposed rulemaking before moratorium begins and last day to submit pending rules to be reviewed by the legislature.*

*\*\*Last day to submit proposed rules in order to complete rulemaking for review by legislature.*

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<b>IDAPA 54</b>	<b>TREASURER, Office of the State</b>	<b>VOLUME 9</b>
<b>IDAPA 21</b>	<b>VETERANS SERVICES, Division of</b>	
<b>IDAPA 46</b>	<b>VETERINARY MEDICAL EXAMINERS, Board of</b>	<b>VOLUME 8</b>
<b>IDAPA 55</b>	<b>VOCATIONAL AND TECHNICAL EDUCATION, Division of</b>	<b>VOLUME 9</b>
<b>IDAPA 47</b>	<b>VOCATIONAL REHABILITATION, Division of</b>	<b>VOLUME 8</b>
<b>IDAPA 37</b>	<b>WATER RESOURCES, Department of</b>	<b>VOLUME 8</b>
<b>IDAPA 42</b>	<b>WHEAT COMMISSION, Idaho</b>	<b>VOLUME 8</b>

# THE OFFICE OF THE GOVERNOR

EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE

## EXECUTIVE ORDER NO. 2001-11

### ESTABLISHING THE IDAHO INVASIVE SPECIES COUNCIL

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WHEREAS, the land, water, and other resources of Idaho are being severely impacted by the invasion of an increasing number of harmful, nonnative plant and animal species; and

WHEREAS, these impacts are resulting in damage to Idaho's environment and causing economic hardships to public, private, and tribal owners; and

WHEREAS, the multitude of public and private organizations with an interest in controlling and preventing the spread of harmful invasive species in Idaho need a mechanism for cooperation, collaboration, and for planning a statewide plan of action to meet this threat; and

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me by law, do hereby order:

1. There is created the Idaho Invasive Species Council.
2. The purpose of the Idaho Invasive Species Council is to provide policy level direction and planning for combating harmful invasive species infestations throughout the state and for preventing the introduction of others that may be potentially harmful.

The Invasive Species Council's responsibilities will be:

1. To minimize the effects of harmful non-native species on Idaho citizens and to ensure the economic and environmental well being of the State of Idaho;
2. To serve as a nonpartisan forum for identifying and understanding invasive species issues from all perspectives;
3. To take measures that will encourage control and prevention of harmful non-native species;
4. To organize and streamline the process for identifying and controlling invasive species;
5. To consider ways to halt the spread of invasive species as well as finding possible ways to bring current problems under control.

The Idaho Invasive Species Council is a joint effort between local, tribal, state, and federal governments, as well as the profit and not-for-profit private sectors. Its purpose is to foster coordinated approaches that support local initiative for the prevention and control of invasive species, not to usurp the individual missions of any of its member organizations or duplicate effort.

Membership shall include a representative from the executive office of the Governor and the directors of the following state entities:

1. State Department of Agriculture
2. Department of Environmental Quality
3. Department of Parks and Recreation
4. Department of Fish and Game
5. Department of Lands
6. Department of Water Resources
7. Department of Commerce
8. Department of Health and Welfare
9. Idaho Transportation Department

10. University of Idaho

*Representatives and members of the following federal entities shall be invited to join the council and participate:*

1. *USDA Forest Service*
2. *USDA Animal and Plant Health Inspection Service*
3. *USDA Natural Resource Conservation Service*
4. *Bureau of Land Management*
5. *Bureau of Reclamation*
6. *Idaho's United States Senators (2)*
7. *Idaho's United States Congressmen (2)*

*A representative from each of the following local government organizations shall be invited to participate:*

1. *Association of Idaho Cities*
2. *Idaho Association of Counties*
3. *Regional planning or economic development districts*
4. *Resource Conservation and Development Districts (RC&Ds)*
5. *Health Districts*

*A representative of each of the five tribal governments of Idaho shall be invited to participate:*

1. *Kootenai Tribe*
2. *Coeur d'Alene Tribe*
3. *Nez Perce Tribe*
4. *Shoshone-Paiute Tribes*
5. *Shoshone-Bannock Tribes*

*Representatives from private and not-for-profit organizations with an interest in the well being of Idaho pertaining to invasive species shall be invited to participate.*

*Additional Members may be added by consensus of the Council.*

*The Idaho Invasive Species Council will meet no less than twice annually. The chairman of the council shall be the director of the Idaho Department of Agriculture or his/her representative. The council shall submit a report of its activities to the Governor and the Legislature annually.*



*IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this twenty-sixth day of September in the year of our Lord two thousand and one and of the Independence of the United States of America the two hundred twenty-fifth and of the Statehood of Idaho the one hundred eleventh.*

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*DIRK KEMPTHORNE  
GOVERNOR*

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*PETE T. CENARRUSA  
SECRETARY OF STATE*

# THE OFFICE OF THE GOVERNOR

EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE

## EXECUTIVE ORDER NO. 2001-12

### **ESTABLISHING STATEWIDE POLICIES ON COMPUTER, THE INTERNET AND ELECTRONIC MAIL USAGE BY STATE EMPLOYEES REPEALING AND REPLACING EXECUTIVE ORDER NO. 98-05**

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*WHEREAS, computers, the Internet and electronic mail are powerful research, communication, commerce and time-saving tools that are made available to state employees; and*

*WHEREAS, use of this efficient and effective communication tool is critical but, like any tools, computers, the Internet and electronic mail have the potential to be used for inappropriate purposes; and*

*WHEREAS, perceptions are important and state employees must constantly be aware of how their actions are perceived by the public;*

*NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state do hereby order as follows:*

*The following statewide policies on computer, the Internet and electronic mail usage shall be observed by all state employees:*

1. *Users of the Internet and electronic mail are to comply with all appropriate laws, regulations and generally accepted Internet etiquette.*
2. *Primary purpose of the Internet and electronic mail is to conduct official business. Occasionally, employees may use the Internet and electronic mail for individual, nonpolitical purposes on their personal time, if such use does not violate the terms and conditions of this policy. Use of the Internet and electronic mail offers employees an opportunity to develop research and communication skills valuable to the effectiveness and efficiency of our state government.*
3. *Users should identify themselves properly when using the Internet and electronic mail, conduct themselves professionally, as representatives of Idaho State Government, and be aware that their activities reflect on the reputation and integrity of all state employees.*
4. *Each user is individually responsible for the content of any communication sent over or placed on the Internet and electronic mail.*
5. *All employees have a responsibility to ensure a respectful workplace. State equipment must not be used to visit Internet sites that contain pornographic or sexually explicit information, pictures, or cartoons.*
6. *Exceptions to this executive order are only allowed when preapproved in writing by appointing authorities and deemed necessary for official state business, research or investigatory work.*
7. **THE FOLLOWING ACTIONS ARE PROHIBITED. IT IS UNACCEPTABLE FOR EMPLOYEES TO:**
  - a) *Knowingly or intentionally publish, display, transmit, retrieve or store inappropriate or offensive material on any department computer system;*
  - b) *Create or distribute defamatory, false, inaccurate, abusive, threatening, racially offensive or otherwise biased, discriminatory or illegal material;*
  - c) *View or distribute obscene, pornographic, profane, or sexually oriented material;*
  - d) *Violate laws, rules, and regulations prohibiting sexual harassment;*

- e) *Encourage the use of controlled substances or for criminal or illegal purposes;*
  - f) *Engage in any unauthorized activities for personal financial gain;*
  - g) *Place advertisements for commercial enterprises, including but not limited to, goods, services or property;*
  - h) *Download, disseminate, store or print materials including articles and software, in violation of copyright laws;*
  - i) *Violate or infringe on the rights of others;*
  - j) *Conduct business unauthorized by the department;*
  - k) *Restrict or inhibit other users from using the system or the efficiency of the computer systems;*
  - l) *Cause congestion or disruption of networks or systems, including distribution of chain letters;*
  - m) *Transmit incendiary statements, which might incite violence or describe or promote the use of weapons;*
  - n) *Conduct political activity;*
  - o) *Use the system for any illegal purpose.*
8. *Disregard for the policies or other improper use of the Internet may result in cancellation of a person's access and/or disciplinary action, up to and including dismissal.*
9. *Internet and electronic mail may be subject to monitoring.*
10. *The above policies are the minimum standards for usage of computers, the Internet and electronic mail. Individual state agencies may implement more restrictive policies as long as those policies are consistent with those developed by the Governor's Information Technology Resource Management Council (ITRMC).*

*This Executive Order shall cease to be effective four years after its effective date.*



*IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this fourth day of September in the year of our Lord two thousand and one and of the Independence of the United States of America the two hundred twenty-fifth and of the Statehood of Idaho the one hundred eleventh.*

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**DIRK KEMPTHORNE**  
**GOVERNOR**

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**PETE T. CENARRUSA**  
**SECRETARY OF STATE**

# **THE OFFICE OF THE GOVERNOR**

**EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE**

## **EXECUTIVE ORDER NO. 2001-13**

### **STATE GOVERNMENT RESPONSIBILITIES FOR ANTI-TERRORISM SUPPORT REQUIREMENTS OF STATE GOVERNMENT AGENCIES PRIOR TO, DURING, AND AFTER TERRORIST ACTION**

*WHEREAS on September 11, 2001, the United States was struck by acts of international and domestic terrorism; and*

*WHEREAS, the State of Idaho has existing legal infrastructure, plans and policies in effect, including the State Disaster Preparedness Act and Executive Order 2000-04, which serve as the basis for the State's initiatives to protect and defend against terrorist acts and the use of Weapons of Mass Destruction (WMD); and*

*WHEREAS, the events of September 11, 2001, have necessitated a heightened state of awareness and focus on terrorist activity and the State's commitment of resources to protect Idaho's citizens, property, infrastructure, commerce and continuity of state government; and*

*WHEREAS, in light of the events of September 11, 2001, there is an urgent need for the State of Idaho to cooperate and coordinate with cities, counties and private sector entities in addition to the federal government, should acts of terrorism or the use of WMD be planned or actually occur in Idaho; and*

*WHEREAS, it is essential that Idaho's existing disaster preparedness planning be assessed, evaluated, and, if necessary, realigned in order to ensure that the State is well equipped to anticipate and respond to acts of terrorism and the use of WMD;*

*NOW, THEREFORE, I, Dirk Kempthorne, Governor of the State of Idaho, by virtue of the powers and authority vested in me as Governor and Commander-in-Chief by the Constitution and laws of this State, do hereby order:*

- 1. That the Adjutant General of the Idaho National Guard (Chief of the Bureau of Disaster Services and Commanding General) is the Governor's designated and authorized coordinator of this state's heightened terrorism initiative and will chair the State Domestic Preparedness Council.*
- 2. That the Director of the Idaho State Police is the Governor's designated and authorized associate coordinator and will work in concert with the Adjutant General.*
- 3. That the State Domestic Preparedness Council is the Governor's designated and authorized entity to implement and execute the provisions of this order. Any additions to the existing membership of the Council will be appointed by the Governor.*
- 4. That each State department and agency review and assess their disaster preparedness obligations under the State Disaster Preparedness Act and Executive Order 2000-04 to ensure that their disaster planning includes specific contingencies for acts of terrorism and the use of WMD.*
- 5. That each State Department and agency review and assess their disaster preparedness obligations under the State Disaster Preparedness Act and Executive Order 2000-04 to ensure that there is adequate cooperation with the federal government, local government, and the private sector in the instance of acts of terrorism and the use of WMD.*
- 6. That each State Department and agency reviewing and assessing their disaster preparedness obligations pursuant to this executive order report within 45 days of the issuance of this order to the Office of the Adjutant General the results of their assessment and review, and, if appropriate, changes to their disaster management plans.*

*Elected State Constitutional officials and officers of the legislative and judicial branches of Idaho State government are requested to participate and cooperate by reviewing their respective disaster preparedness obligations under the State Disaster Preparedness Act and Executive Order 2000-04 to ensure that their disaster planning includes specific contingencies for acts of terrorism and the use of WMD.*

*The head of each governmental agency is hereby authorized to delegate the functions assigned to him or her by this Order.*

*This order shall take effective immediately upon its execution and cease to be effective four years after its entry into force.*



*IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this twenty-seventh day of September in the year of our Lord two thousand and one and of the Independence of the United States of America the two hundred twenty-fifth and of the Statehood of Idaho the one hundred eleventh.*

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**DIRK KEMPTHORNE  
GOVERNOR**

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**PETE T. CENARRUSA  
SECRETARY OF STATE**

**THE OFFICE OF THE GOVERNOR**

EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE

**EXECUTIVE ORDER NO. 2001-14**

**SUPPORT REQUIREMENTS OF THE IDAHO NATIONAL GUARD  
FOR THE PURPOSE OF SECURING AIRPORTS AND FOR THE ADDED SECURITY  
OF THE AMERICAN TRAVELING PUBLIC WITHIN THE STATE OF IDAHO**

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WHEREAS, the United States has been struck by international and domestic terrorism; and

WHEREAS, acts of terrorism, the potential use of Weapons of Mass Destruction (WMD), or other human-caused catastrophes are an increasingly present possibility within the State; and

WHEREAS, Title 46, Section 46-1003, Idaho Code requires the State to take action "to prevent and reduce damage, injury, and loss of life and property resulting from natural or man made catastrophes, riots, or hostile military or paramilitary action;" and

WHEREAS, the President of the United States, on September 27, 2001, did request that the nation's Governors implement the use of each state's National Guard to help protect the lives of the American traveling public and the nation's air travel infrastructure,

NOW, THEREFORE, I, Dirk Kempthorne, Governor of the State of Idaho, by virtue of the powers and authority vested in me as Governor and Commander-in-Chief by the Constitution and laws of this State, do hereby order the Adjutant General of the State of Idaho to

1. Provide Idaho National Guard assets to assist local law enforcement, airport security personnel and airport management with the security of the flying public and the security of the aviation infrastructure, including aircraft and facilities, in the following cities:

- a. Boise
- b. Hailey
- c. Idaho Falls
- d. Lewiston
- e. Pocatello
- f. Twin Falls

This order shall remain in effect until cancelled at the request of the President of the United States and/or until revoked by the Governor of the State of Idaho.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this twenty-seventh day of September in the year of our Lord two thousand and one and of the Independence of the United States of America the two hundred twenty-fifth and of the Statehood of Idaho the one hundred eleventh.

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DIRK KEMPTHORNE  
GOVERNOR

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PETE T. CENARRUSA  
SECRETARY OF STATE

**IDAPA 07 - DIVISION OF BUILDING SAFETY**  
**07.01.04 - RULES GOVERNING ELECTRICAL SPECIALTY LICENSING**  
**DOCKET NO. 07-0104-0102**  
**NOTICE OF PUBLIC HEARING**

**AUTHORITY:** In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has scheduled a public hearing and extended the period of public comment. The action is authorized pursuant to Sections 54-1006(5) and 54-1001, Idaho Code.

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

**November 9, 2001, 9:00 a.m.**  
**Division of Building Safety**  
**Board Conference Room**  
**1090 E. Watertower Street**  
**Meridian, Idaho**

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. For arrangements, contact the undersigned at (208) 334-3951.

**DESCRIPTIVE SUMMARY:** The summary of this action is found in the Idaho Administrative Bulletin, Volume 01-10, October 3, 2001, pages 40 through 41.

**ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this rulemaking, contact Gary Malmen, Electrical Bureau Chief, (208) 332-7147.

Anyone may submit written comments regarding this rulemaking. All written comments must be directed to the undersigned and must be delivered on or before November 9, 2001.

DATED this 23rd day of October, 2001.

Dave Munroe, Administrator  
Division of Building Safety  
1090 E. Watertower St.  
Meridian, Idaho 83642  
Phone: (208) 334-3951  
Fax: (208) 855-2164

**IDAPA 11 - IDAHO STATE POLICE**  
**11.05.01 - RULES GOVERNING ALCOHOL BEVERAGE CONTROL**  
**DOCKET NO. 11-0501-0102**  
**NOTICE OF TEMPORARY AND PROPOSED RULEMAKING**

**EFFECTIVE DATE:** The temporary rule is effective January 1, 2002.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules and has proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 23-932, 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 November 21, 2001.

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

**DESCRIPTIVE SUMMARY:** The following is a statement in non-technical language of the substance of the proposed rule:

Pursuant to Sections 23-908, 23-1010 and 23-1316, Idaho Code, the Director is given the authority to stagger the renewal of licenses to sell alcohol. The proposed rule is intended to add a table of staggered licensing renewal by each county. The staggered alcohol license renewal system is based on the number of current licenses in each county. The Idaho State Police may adjust the renewal month to accommodate population increases.

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

It is reasonably necessary to protect the public health, safety, or welfare.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the simple nature of the proposed rule change.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rulemaking, contact Lonnie Gray, Alcohol Beverage Control. Anyone may submit written comments regarding this rule.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before November 28, 2001.

DATED this 24th of September, 2001.

Margaret P. White  
Deputy Attorney General  
Department of Law Enforcement  
P.O. Box 700  
Meridian, ID 83680-0700  
(208) 884-7050  
(208) 884-7090 (FAX)

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-0501-0102**

**011. GENERAL PROVISIONS.**

**01. Repeal Of Prior Rules.** The Director intends to promulgate a uniform and consistent set of alcoholic beverage rules. Accordingly, all rules adopted before the effective date of this chapter (Sections 000 through 021), which concern or involve the licensing of alcoholic beverages, specifically rules 1-L; 2-L; 3-L; 4-L; 6-L; 10-L; 11-L; 1-B; 2-B; 3-B; 5-B; 6-B; 7-B; 9-B; 11.05.A,1.0; 11.05.A,1.1; and 11.05.A,1.2, are hereby repealed and declared null and void. (7-1-93)

**02. Delegation Of Authority To License Alcoholic Beverages.** The Director hereby delegates his authority for the licensing of establishments which sell alcoholic beverages, as contained in Title 23, Chapters 9, 10, and 13, Idaho Code, to the, Alcohol Beverage Control Bureau, Idaho State Police. All applications and inquiries concerning alcoholic beverage licenses must be directed to the Alcohol Beverage Control Bureau at P.O. Box 700, Meridian, Idaho 83680. The Alcohol Beverage Control Bureau shall provide forms for all applications and inquiries. Provided, however, that nothing contained herein shall interfere with the Director's supervisory authority for alcoholic beverage licensing. (Section 67-2901(4), Idaho Code). (3-31-95)

**03. Authority To Stagger The Renewal Of Licenses To Sell Alcohol.** For the purposes of Sections 23-908, 23-1010 and 23-1316, Idaho Code, the Director may adjust the renewal month to accommodate population increases. The following table sets out the notification months and renewal months established to renew licenses to sell alcohol:

<u>Renewal Notices</u>	<u>County</u>	<u>Renewal Month</u>
<u>January</u>	<u>Kootenai</u>	<u>1-Mar</u>
<u>January</u>	<u>Benewah</u>	<u>1-Mar</u>
<u>February</u>	<u>Ada</u>	<u>1-May</u>
<u>March</u>	<u>Ada</u>	<u>1-May</u>
<u>April</u>	<u>Canyon</u>	<u>1-Jun</u>
<u>April</u>	<u>Owyhee</u>	<u>1-Jun</u>
<u>April</u>	<u>Payette</u>	<u>1-Jun</u>
<u>May</u>	<u>Twin Falls</u>	<u>1-Jul</u>
<u>May</u>	<u>Gooding</u>	<u>1-Jul</u>
<u>May</u>	<u>Camas</u>	<u>1-Jul</u>
<u>May</u>	<u>Lincoln</u>	<u>1-Jul</u>
<u>May</u>	<u>Jerome</u>	<u>1-Jul</u>
<u>June</u>	<u>Cassia</u>	<u>1-Aug</u>
<u>June</u>	<u>Minidoka</u>	<u>1-Aug</u>
<u>June</u>	<u>Butte</u>	<u>1-Aug</u>
<u>June</u>	<u>Blaine</u>	<u>1-Aug</u>
<u>June</u>	<u>Power</u>	<u>1-Aug</u>

<u>Renewal Notices</u>	<u>County</u>	<u>Renewal Month</u>
<u>July</u>	<u>Lemhi</u>	<u>1-Sep</u>
<u>July</u>	<u>Custer</u>	<u>1-Sep</u>
<u>July</u>	<u>Boise</u>	<u>1-Sep</u>
<u>July</u>	<u>Valley</u>	<u>1-Sep</u>
<u>August</u>	<u>Elmore</u>	<u>1-Oct</u>
<u>August</u>	<u>Clark</u>	<u>1-Oct</u>
<u>August</u>	<u>Fremont</u>	<u>1-Oct</u>
<u>August</u>	<u>Jefferson</u>	<u>1-Oct</u>
<u>August</u>	<u>Madison</u>	<u>1-Oct</u>
<u>August</u>	<u>Teton</u>	<u>1-Oct</u>
<u>August</u>	<u>Bonneville</u>	<u>1-Oct</u>
<u>September</u>	<u>Bingham</u>	<u>1-Nov</u>
<u>September</u>	<u>Bannock</u>	<u>1-Nov</u>
<u>September</u>	<u>Caribou</u>	<u>1-Nov</u>
<u>September</u>	<u>Oneida</u>	<u>1-Nov</u>
<u>September</u>	<u>Franklin</u>	<u>1-Nov</u>
<u>September</u>	<u>Bear Lake</u>	<u>1-Nov</u>
<u>October</u>	<u>Boundary</u>	<u>1-Dec</u>
<u>October</u>	<u>Bonner</u>	<u>1-Dec</u>
<u>October</u>	<u>Shoshone</u>	<u>1-Dec</u>
<u>November</u>	<u>Adams</u>	<u>1-Jan</u>
<u>November</u>	<u>Gem</u>	<u>1-Jan</u>
<u>November</u>	<u>Washington</u>	<u>1-Jan</u>
<u>December</u>	<u>Latah</u>	<u>1-Feb</u>
<u>December</u>	<u>Nez Perce</u>	<u>1-Feb</u>
<u>December</u>	<u>Idaho</u>	<u>1-Feb</u>
<u>December</u>	<u>Lewis</u>	<u>1-Feb</u>
<u>December</u>	<u>Clearwater</u>	<u>1-Feb</u>
<u>Renewal Notices</u>	<u>Certs of Approval</u>	<u>Renewal Month</u>
<u>November</u>	<u>Out of State</u>	<u>1-Jan</u>

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**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.04 - RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO**  
**DOCKET NO. 16-0304-0103**  
**NOTICE OF TEMPORARY AND PROPOSED RULEMAKING**

**EFFECTIVE DATE:** The temporary rule is effective October 1, 2001.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 56-202(b), 56-1004(a), 5526(a), Public Law 105-33, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Pursuant to Section 67-5222(2), Idaho Code, 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 November 21, 2001.

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

**DESCRIPTIVE SUMMARY:** The following is a statement in non-technical language of the substance of the proposed rule:

These rules revise the gross and net monthly income limits, excess shelter, and allotment levels for Food Stamp households.

**TEMPORARY RULE JUSTIFICATION:** Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to comply with deadlines in amendments to governing law or federal programs and to confer a benefit to the public.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rulemaking is to comply with amendments to governing law and federal programs.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary or proposed rule, contact Patti Campbell, Chief, Bureau of Benefit Program Operations at (208) 334-5818.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before November 28, 2001.

DATED this 11th day of September, 2001.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Division of Legal Services  
450 West State Street, 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone  
(208) 332-7347 fax

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0304-0103**

**213. SEPARATE FOOD STAMP HOUSEHOLD COMPOSITION FOR RELATED MEMBERS.**

One (1) of the conditions below must be met for related persons living together to be separate Food Stamp households. (6-1-94)

**01. Children Age Twenty-Two And Older Living With Parents.** Children age twenty-two (22) and older, living with their parents, can be separate Food Stamp households. The households must purchase and prepare their food separately. (9-1-94)

**02. Households Must Prepare Food Together Because Of Age And Disability.** Households that must purchase and prepare food together because one (1) household contains a person sixty (60) years of age or older unable to purchase and prepare meals because of a disability, can be separate Food Stamp households. The spouse of the disabled person must be considered a member of that person's household. These households must meet the following conditions: The disability must be permanent under the Social Security Act or a nondisease related, severe permanent disability. The income of the household, which does not contain the person unable to purchase and prepare meals separately, must not exceed one hundred sixty-five percent (165%) of the ~~gross net monthly~~ income limit for the household size. To count income for the one hundred ~~and~~ sixty-five percent (165%) ~~gross net monthly~~ income standard: Exclude the income of the disabled person and his spouse. Count all available income to the household not containing the disabled person. Compare the ~~gross net monthly~~ income eligibility standard for that size household. (7-1-98)(10-1-01)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**532. GROSS INCOME LIMIT.**

Households exceeding the gross income limit for the household size are not eligible, unless they are categorically eligible or have an elderly or disabled member. Categorically eligible households are exempt from gross and net income limits. All members of categorically eligible households must be approved for TAFI, AABD, or SSI. Households with elderly or disabled household members are exempt from the gross income limit. Gross income limits are listed in Table 532.

TABLE 532 - GROSS INCOME LIMIT	
Household Size	Gross Income Limit
1	<del>\$905</del> 31
2	<del>\$1,240</del> 58
3	<del>\$1,533</del> 85
4	<del>\$1,848</del> 13
5	<del>\$2,462</del> 40
6	<del>\$2,476</del> 67
7	<del>\$2,790</del> 94
8	<del>\$3,404</del> 21
Each Added Person	Add <del>\$345</del> 28

(3-30-01)(10-1-01)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**549. NET INCOME LIMIT TEST.**

Categorically eligible households do not have a net income limit. For all other households, including those with an elderly or disabled household member, compare the net income to the net income eligibility limit for that size household. This comparison must be completed for initial eligibility and when income changes. When the household income changes to a different income eligibility limit, apply the different limit. If the net income of the household exceeds the net income limit the household is not eligible for Food Stamps, unless categorically eligible. Net income limits are listed in Table 549.

<b>TABLE 549 - NET INCOME LIMITS</b>	
<b>Household Size</b>	<b>Net Income Limit</b>
1	\$ <del>696</del> <u>716</u>
2	\$ <del>938</del> <u>68</u>
3	\$ <del>1,480</del> <u>220</u>
4	\$ <del>1,424</del> <u>71</u>
5	\$ <del>1,663</del> <u>723</u>
6	\$ <del>1,905</del> <u>75</u>
7	\$ <del>2,446</del> <u>226</u>
8	\$ <del>2,388</del> <u>478</u>
Each Added Person Add	\$ <del>242</del> <u>52</u>

(~~3-30-01~~)(10-1-01)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**581. MAXIMUM FOOD STAMPS BY HOUSEHOLD SIZE.**

The maximum Food Stamp amount by household size is listed in Table 581.

<b>TABLE 581 - MAXIMUM FOOD STAMPS BY HOUSEHOLD SIZE</b>	
<b>Household Size</b>	<b>Maximum Food Stamps</b>
1	\$ <del>136</del> <u>5</u>
2	\$ <del>238</del> <u>48</u>
3	\$ <del>344</del> <u>56</u>
4	\$ <del>434</del> <u>52</u>
5	\$ <del>545</del> <u>37</u>
6	\$ <del>648</del> <u>44</u>
7	\$ <del>683</del> <u>712</u>
8	\$ <del>784</del> <u>814</u>
Each Added Person	Add \$ <del>98</del> <u>102</u>

(~~3-30-01~~)(10-1-01)T

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.05 - RULES GOVERNING ELIGIBILITY FOR AID TO THE AGED,**  
**BLIND, AND DISABLED (AABD)**

**DOCKET NO. 16-0305-0103**

**NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** The pending rule has been adopted by the agency and is now pending review by the 2002 Idaho State Legislature for final approval. The pending rule becomes final and effective upon adjournment of the legislature, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224(5)(a) 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(s) 56-1004(1), 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 original text of the proposed rules was published in the August 1, 2001 Administrative Bulletin, Volume 01-8, pages 47 through 54.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Patti Campbell at (208) 334-5818.

DATED this 4th day of September, 2001.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Legal Services Division  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone, (208) 332-7347 fax

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**IDAPA 16, TITLE 03, Chapter 05**

**RULES GOVERNING ELIGIBILITY FOR AID TO THE AGED,**  
**BLIND AND DISABLED (AABD)**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 01-8, August 1, 2001, pages 47 through 54.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2002 Idaho State Legislature as a final rule.**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM**

**DOCKET NO. 16-0309-0105**

**NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** The pending rule has been adopted by the agency and is now pending review by the 2002 Idaho State Legislature for final approval. The pending rule becomes final and effective upon adjournment of the legislature, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224(5)(a) 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(s) 56-202(f), 39-5601 through 39-5608, 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 original text of the proposed rule was published in the August 1, 2001 Administrative Bulletin, Volume 01-8, pages 55 through 57.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Christine Cuellar at (208) 364-1891.

DATED this 4th day of September, 2001.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Legal Services Division  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 332-7347 fax

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**IDAPA 16**  
**TITLE 03**  
**Chapter 09**

**RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 01-8, August 1, 2001, pages 55 through 57.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2002 Idaho State Legislature as a final rule.**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.10 - RULES GOVERNING MEDICAID PROVIDER REIMBURSEMENT IN IDAHO**

**DOCKET NO. 16-0310-0101**

**NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** The pending rule has been adopted by the agency and is now pending review by the 2002 Idaho State Legislature for final approval. The pending rule becomes final and effective upon adjournment of the legislature, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224(5)(a) 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(s) 56-202(b) and 56-203(g), 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 original text of the proposed rule was published in the August 1, 2001, Administrative Bulletin, Volume 01-8, page 58.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Jean Christensen at (208) 334-5795.

DATED this 4th day of September, 2001.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Legal Services Division  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone  
(208) 332-7347 fax

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**IDAPA 16, TITLE 03, Chapter 10**

**RULES GOVERNING MEDICAID PROVIDER REIMBURSEMENT IN IDAHO**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 01-8, August 1, 2001, page 58.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2002 Idaho State Legislature as a final rule.**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.14 - RULES AND MINIMUM STANDARDS FOR HOSPITALS IN IDAHO**

**DOCKET NO. 16-0314-0001**

**NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** The pending rule has been adopted by the agency and is now pending review by the 2002 Idaho State Legislature for final approval. The pending rule becomes final and effective upon adjournment of the legislature, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224(5)(a) 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(s) 39-1307, 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.

Sections 250 and 330 are revised to state, that orders must be signed or otherwise authenticated in a timely manner consistent with hospital policy. The proposed rules have been amended to be consistent with Section 39-1390, Idaho Code, and are being amended pursuant to Section 67-5227, Idaho Code.

Only the sections of the pending rule that have changes are printed in this bulletin. The original text of the proposed rule was published in the October 4, 2000 Administrative Bulletin, Volume 00-10, page(s) 368 through 373.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Sylvia Creswell at (208) 364-1863.

DATED this 3rd day of August, 2001.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Legal Services Division  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 332-7347 fax

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**IDAPA 16, TITLE 03, Chapter 14**

**RULES AND MINIMUM STANDARDS FOR HOSPITALS IN IDAHO**

**There are substantive changes from the proposed rule text.**

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 00-10, October 4, 2000, pages 368 through 373.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2002 Idaho State Legislature as a final rule.

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**THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 16-0314-0001**

***SUBSECTION 250.09***

**250. MEDICAL STAFF.**

The hospital shall have an active medical staff organized under bylaws approved by the governing body and responsible to the governing body for the quality of all medical care provided the patients, and for the professional practices and ethical conduct of the members. (10-14-88)

**09. Medical Orders.** Written, verbal and telephone orders from persons authorized to give medical orders under Idaho law shall be accepted by those health care practitioners empowered to do so under Idaho law and written hospital policies and procedures. Verbal and telephone orders shall contain the name of the person giving the order, the first initial and last name and professional designation of the health care practitioners receiving the order. The order(s) shall be promptly signed or otherwise authenticated by the prescribing practitioner in a timely manner in accordance with the hospital's policy. (~~10-14-88~~)( )

***(BREAK IN CONTINUITY OF SECTIONS)***

***SUBSECTION 330.04.c.iii.***

**330. PHARMACY SERVICE.**

The hospital shall provide an organized pharmaceutical service that is administered in accordance with accepted professional principles and appropriate federal, state, and local laws. (10-14-88)

**04. Policies And Procedures.** Written policies and procedures shall be developed by the pharmacy and therapeutics committee or its equivalent to govern the pharmaceutical services provided by the hospital. (10-14-88)

c. Policies and procedures shall include, but are not limited to the following: (10-14-88)

i. There shall be a drug recall procedure that can be readily implemented; and (10-14-88)

ii. All medications not specifically prescribed as to time or number of doses shall be controlled by automatic stop orders or other methods; and (10-14-88)

iii. Drugs shall be dispensed and administered only upon written or verbal order of a member of the medical staff authorized to prescribe. Verbal orders for drugs shall be given only to those health care practitioners empowered to accept orders under Idaho law and written hospital policies and procedures. Verbal or telephone orders shall be signed or otherwise authenticated in a timely manner by the prescriber ~~within twenty-four (24) hours in accordance with the hospital's policy.~~ The person accepting the verbal or telephone orders shall meet the procedures set forth in Subsection 250.409; and (~~12-31-91~~)( )

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.19 - RULES GOVERNING CERTIFIED FAMILY HOMES**  
**DOCKET NO. 16-0319-0101**  
**NOTICE OF TEMPORARY AND PROPOSED RULEMAKING**

**EFFECTIVE DATE:** The temporary rule is effective July 1, 2001.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 39-3371, 39-3561, 39-3393 and 39-3580, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Pursuant to Section 67-5222(2), Idaho Code, 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 November 21, 2001.

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 2001 Legislature amended the Board and Care Act and the Residential Care Act for the Elderly allowing the Department to grant an exception to the two-resident limit for certified family homes to take a third or fourth resident. These rules set forth the criteria for the certifying agency to grant a certified family home an exception to add a third or fourth resident.

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

Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to comply with deadlines in amendments to governing law or federal programs.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was by the Department with the Board and Care Council and Residential Care Council for the Elderly.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary or proposed rule, contact Debby Ransom or Virginia Loper at (208) 364-1843.

Anyone can submit written comments regarding this proposed rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before November 28, 2001.

DATED this 14th day of June, 2001.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Division of Legal Services  
450 West State Street, 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone  
(208) 332-7347 fax

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0319-0101**

**101. EXCEPTION TO THE TWO RESIDENT LIMIT.**

**01. Criteria For Determination.** A home may apply to the Department for an exception to the two (2) resident limit to care for three (3) or four (4) residents. The Department shall determine if safe and appropriate care can be provided based upon resident needs and regardless of payment source. The Department shall consider, at a minimum, the following factors in making that determination: (7-1-01)T

- a. Each current or prospective resident's physical, mental and behavioral status and history; and (7-1-01)T
- b. The household composition including the number of adults, children and other family members requiring care from the providers; and (7-1-01)T
- c. The training, education, and experience of the provider to meet each resident's needs; and (7-1-01)T
- d. Potential barriers that might limit resident safe access to and exit from the rooms in the home; and (7-1-01)T
- e. The number and qualifications of care givers in the home; and (7-1-01)T
- f. The desires of the prospective and current residents; and (7-1-01)T
- g. The individual and collective hours of care needed by the residents; and (7-1-01)T
- h. The physical layout of the home and the square footage available to meet the needs of all persons living in the home. (7-1-01)T

**02. Other Employment.** Providers of three (3) or four (4) bed homes shall not have other gainful employment unless: (7-1-01)T

- a. The total direct care time for all residents, as reflected by the negotiated service agreements and assessments, does not exceed eight (8) hours per day; and (7-1-01)T
- b. The provider is immediately available to meet resident needs as they arise; and (7-1-01)T
- c. Each resident is supervised at all times unless the assessment or service plan indicates the resident may be left unattended for designated periods of time. (7-1-01)T

**03. Additional Training.** Providers of three (3) or four (4) bed homes shall, if necessary, obtain additional training as determined by the Department to meet the needs of the residents. (7-1-01)T

**04. Substitute Caregivers.** Providers of three (3) or four (4) bed homes shall arrange substitute caregivers for periods when the provider must be absent from the home. Providers are responsible: (7-1-01)T

- a. To ensure substitute caregivers do not have a criminal history; and (7-1-01)T
- b. To ensure the substitute caregivers have the ability and training necessary to provide care commensurate with the period of the absence and the distance the provider is from the home. (7-1-01)T

**05. Fire Drills.** Providers of three (3) or four (4) bed homes shall conduct fire drills at least quarterly. Residents who are physically unable to exit unassisted may be exempted from physical participation in the drill if the

provider has an effective evacuation plan for such residents and discusses the plan with the resident at the time of the drill. (7-1-01)T

**06. Guardianship.** A provider applying to care for three (3) or four (4) residents may not become the guardian of any resident unless either of the following applies: (7-1-01)T

a. The guardianship was established prior to July 1, 2001; or (7-1-01)T

b. The proposed guardian is a parent, child, sibling, or grandparent of the resident. (7-1-01)T

**07. Certification Nontransferable.** Certification to care for more than two (2) residents shall not be transferable to another person, home, or entity. (7-1-01)T

**08. Reassessment Of Certification.** Certification to care for more than two (2) residents shall be reassessed at least annually and when either of the following occur: (7-1-01)T

a. Each time a new admission is being considered; or (7-1-01)T

b. When there is a significant change in any of the factors specified in Subsection 101.01 of this section. (7-1-01)T

**09. Additional Physical Home Standards.** In addition to the requirements in Section 700 of these rules, not more than two (2) residents shall be housed in any multi-bed sleeping room. (7-1-01)T

~~1072.~~ -- 149. (RESERVED).

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.19 - RULES GOVERNING CERTIFIED FAMILY HOMES**  
**DOCKET NO. 16-0319-0102**  
**NOTICE OF TEMPORARY AND PROPOSED RULEMAKING**

**EFFECTIVE DATE:** The temporary rule is effective July 1, 2001.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 39-3371 and 39-3561, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Pursuant to Section 67-5222(2), Idaho Code, 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 November 21, 2001.

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:

Few if any, certified family homes are equipped to transport an intensely violent, suicidal, or acutely ill resident. Recently some law enforcement officers are refusing to transport these residents, as they feel that it is the responsibility of the home. With the change in the rule, adding the verbiage "arrange for" emergency transportation, it will be made clear that the home does not have a legal duty to provide the emergency transportation, as it is not equipped to provide the service in a safe manner. Instead the home will have the responsibility to arrange for emergency transportation.

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

Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to protect public health, safety and welfare.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted by the Department with the Board of Care Council and Residential Care Council for the Elderly.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary or proposed rule, contact Debby Ransom at (208) 334-6626.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before November 28, 2001.

DATED this 17th day of August, 2001.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Division of Legal Services  
450 West State Street, 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone  
(208) 332-7347 fax

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0319-0102**

**700. HOME CONSTRUCTION AND PHYSICAL HOME STANDARDS.**

**01. General Requirements.** (4-5-00)

a. All buildings utilized as certified family homes shall be of such character as to be suitable for such use. Certified family homes shall not be housed in buildings intended for other than residential living purposes; (4-5-00)

b. Remodeling or additions to homes shall be consistent with residential use of the property and shall not detract from the residential use of the property. Remodeling which identifies the home as a certified family home is prohibited such as remodeling garages when this is not the general practice in the neighborhood or constructing large buildings which overwhelm the lot on which the home is located; and (4-5-00)

c. All homes shall be subject to the approval of the Department. (4-5-00)

**02. Walls And Floors.** Walls and floors shall be of such character to permit frequent cleaning. Walls in residents' sleeping rooms shall extend from floor to ceiling and shall be of such character as to stop the passage of smoke and to provide the resident with privacy. (4-5-00)

**03. Telephone.** There shall be a telephone in the home which is accessible to all residents. The telephone shall be situated in such a manner as to provide the resident adequate privacy while using the telephone for private calls. The telephone shall be made immediately available in case of an emergency. Emergency numbers shall be posted near the telephone. (4-5-00)

**04. Toilet Facilities And Bathrooms.** Each certified family home shall provide: (4-5-00)

a. At least one (1) flush toilet, one (1) tub or shower, and one (1) lavatory with a mirror; (4-5-00)

b. Toilet facilities and bathrooms shall be separated from all rooms by solid walls or partitions; (4-5-00)

c. All inside toilet facilities and/or bathrooms shall have forced ventilation to the outside; (4-5-00)

d. Tubs, showers, and lavatories shall be connected to hot and cold running water; and (4-5-00)

e. Toilet facilities and bathrooms for resident use shall be so arranged that it is not necessary for an individual to pass through another resident's room to reach the toilet or bath. (4-5-00)

**05. Accessibility For Persons With Mobility And Sensory Impairments.** For residents with mobility or sensory impairments, the home shall provide a physical environment which meets the needs of the person for independent mobility and use of appliances, bathroom facilities, and living areas. New construction must meet the Americans with Disabilities Act Accessibility Guidelines (ADAAG) requirements. Existing homes shall comply, to the maximum extent feasible with Title III-4.4000 of the Americans with Disabilities Act, without creating an undue hardship or burden on the home, and shall provide as required, the necessary accommodations: (4-5-00)

a. Ramps for residents who require assistance with ambulation shall comply with the Americans with Disabilities Act Accessibility Guidelines (ADAAG) 4.8; and (4-5-00)

b. Bathrooms and doors large enough to allow the easy passage of a wheelchair as provided for in the Americans with Disabilities Act Accessibility Guidelines (ADAAG) 4.13; and (4-5-00)

c. Grab bars in resident toilet facilities and bathrooms that comply with the Americans with

Disabilities Act Accessibility Guidelines (ADAAG) 4.26; and (4-5-00)

d. Toilet facilities that comply with the Americans with Disabilities Act Accessibility Guidelines (ADAAG) 4.16 and 4.23; and (4-5-00)

e. Non-retractable faucet handles that comply with the Americans with Disabilities Act Accessibility Guidelines (ADAAG) 4.19 (with the exception of self-closing valves under 4.19.5) and 4.27; and (4-5-00)

f. Suitable hand railing shall be provided on both sides of all stairs leading into and out of a building for residents who require the use of crutches, walkers, or braces. (4-5-00)

**06. Furnishings And Equipment.** Room and board, assistance with activities of daily living, supervision, assistance with and monitoring of medications, linen, towels, wash cloths, a reasonable supply of soap, shampoo, toilet paper, sanitary napkins, first aid supplies, electric razors or other means of shaving, toothpaste, laundering of linens owned by the home, arrange for emergency transportation, housekeeping service, maintenance, utilities, and basic television in common areas shall be included in the basic room and board charges and must be available at no extra charge. In addition, the following shall apply: ~~(4-5-00)~~(7-1-01)T

a. Resident living rooms shall be provided with reading lamps, tables, and comfortable chairs and/or sofas; (4-5-00)

b. Each resident shall be provided with his own bed which shall be at least thirty-six (36) inches wide, substantially constructed, and in good repair. Roll-away type beds, cots, folding beds, or double bunks shall not be utilized. Each bed shall be provided with springs which are in good repair, a clean and comfortable mattress which is standard for the bed, and a pillow; (4-5-00)

c. Each sleeping room shall be equipped with individual storage for personal items for each resident; (4-5-00)

d. Adequate and satisfactory equipment and supplies shall be provided to serve the residents. The amount and kind shall vary according to the size of the home and type of resident; and (4-5-00)

e. A two-way intercom shall be provided when the size or design of the building necessitates a need for such a system. (4-5-00)

**07. Storage Areas.** Adequate storage shall be provided in addition to the required storage in resident sleeping rooms. (4-5-00)

**08. Lighting.** Adequate lighting shall be provided in all resident sleeping rooms, dining/living/recreation rooms, and halls. (4-5-00)

**09. Ventilation.** The home shall be ventilated, and precautions shall be taken to prevent offensive odors. (4-5-00)

**10. Heating.** The temperature within the certified family home shall be maintained at seventy (70) degrees Fahrenheit or more during waking hours when residents are at home and sixty-five (65) degrees Fahrenheit or more during sleeping hours or as defined in the Negotiated Service Agreement. Wood stoves shall not be the primary source of heat and the thermostat for the primary source of heat shall be remotely located away from the wood stove. (4-5-00)

**11. Plumbing.** All plumbing in the home shall comply with local and/or state codes. All plumbing fixtures shall be easily cleanable and maintained in good repair. (4-5-00)

**12. Resident Sleeping Rooms.** (4-5-00)

a. Resident sleeping rooms shall not be in attics, stairs, halls, or any rooms commonly used for other than bedroom purposes. Resident sleeping rooms may be in basements only if the following conditions are met:

(4-5-00)

i. The window must not open into a window well that cannot be exited, and the window must provide an adequate view of the outdoors. All other fire and life safety requirements for windows must be met; (4-5-00)

ii. The basement must have floors, ceilings, and walls which are finished to the same degree as the rest of the home. The sleeping room must meet all other requirements of these rules; and (4-5-00)

iii. The resident must be assessed through the Negotiated Service Agreement to be capable of evacuating from the basement without assistance in an emergency. (4-5-00)

b. Resident sleeping rooms shall be provided with walls that run from floor to ceiling and with solid doors that will stop the passage of smoke and provide the resident with adequate privacy; (4-5-00)

c. Residents shall not occupy the same bedroom as the certified family home provider or their minor age children; (4-5-00)

d. Ceiling heights in sleeping rooms shall be at least seven feet six inches (7'6"); (4-5-00)

e. If closet space is utilized by two (2) residents, it shall be provided with substantial dividers for separation of each resident's clothing. All closets shall be equipped with doors. Free-standing closets shall be deducted from the square footage in the sleeping room; (4-5-00)

f. Homes shall provide sleeping rooms which allow for not less than one-hundred (100) square feet of floor space per resident in a single-bed sleeping room and not less than eighty (80) square feet of floor space per resident in a two (2) person sleeping room. (4-5-00)

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.22 - RULES FOR LICENSED RESIDENTIAL AND ASSISTED LIVING FACILITIES IN IDAHO**  
**DOCKET NO. 16-0322-0101**

**NOTICE OF TEMPORARY AND PROPOSED RULEMAKING**

**EFFECTIVE DATE:** The temporary rule is effective July 1, 2001.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 39-3305 (Idaho Board and Care Act) and 39-3505 (Residential Care for the Elderly, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Pursuant to Section 67-5222(2), Idaho Code, 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 November 21, 2001.

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:

Few if any, certified family homes are equipped to transport an intensely violent, suicidal, or acutely ill resident. Recently some law enforcement officers are refusing to transport these residents, as they feel that it is the responsibility of the home. With the change in the rule, adding the verbiage "arrange for" emergency transportation, it will be made clear that the home does not have a legal duty to provide the emergency transportation, as it is not equipped to provide the service in a safe manner. Instead the home will have the responsibility to arrange for emergency transportation.

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

Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to protect the public health, safety and welfare.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted by the Department with the Board and Care Council and Residential Care Council for the Elderly.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary or proposed rule, contact Debby Ransom at (208) 334-6626.

Anyone can submit written comments regarding this proposed rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before November 28, 2001.

DATED this 17th day of August, 2001.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Division of Legal Services  
450 West State Street, 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone  
(208) 332-7347 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0322-0101

**550. REQUIREMENTS FOR FURNISHING, EQUIPMENT, AND SUPPLIES.**

Furnishing, Equipment, and Supplies. Each facility shall provide: (3-10-00)

**01. Living Room Furnishings.** Reading lamps, tables, and comfortable chairs or sofas in living rooms. (3-10-00)

**02. Resident Sleeping Room Furnishings.** Comfortable furnishings and individual storage for personal items for each resident in each sleeping room. (3-10-00)

**03. Resident Bed.** Each resident with his own bed, which shall be at least thirty-six (36) inches wide, substantially constructed, and in good repair. Roll-away beds, cots, folding beds, or double bunks shall be prohibited. Each bed shall be provided with springs which are in good repair, a clean and comfortable mattress which is standard for the bed, and a pillow. (3-10-00)

**04. Drinking Glasses.** Clean drinking glasses for resident use. Common drinking glasses shall be prohibited. (3-10-00)

**05. Resident Telephone Privacy.** A telephone in the facility which is accessible to all residents. The telephone shall be situated in such a manner so as to provide the resident adequate privacy while using the telephone. (3-10-00)

**06. Basic Services And Supplies.** Room, board, activities of daily living services, supervision, assistance and monitoring of medications, linen, towels, wash cloths, soap, shampoo, comb, hairbrush, toilet paper, sanitary napkins, first aid supplies, electric razors or other means of shaving, toothbrush, toothpaste, laundering of linens owned by the facility, arrange for emergency transportation, housekeeping services, maintenance, utilities, and basic T.V. in common areas shall be included in the basic room and board charges and must be available at no extra charge. ~~(3-10-00)~~(7-1-01)T

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.23 - RULES GOVERNING UNIFORM ASSESSMENTS FOR STATE-FUNDED CLIENTS**

**DOCKET NO. 16-0323-0101**

**NOTICE OF TEMPORARY RULEMAKING**

**EFFECTIVE DATE:** The temporary rule is effective October 1, 2001.

**AUTHORITY:** In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted temporary rules. The action is authorized pursuant to Section(s) 39-3308, 39-3508 and 56-202(b), Idaho Code.

**PUBLIC HEARINGS:** The Department of Health and Welfare held hearings statewide for public comment during the week of September 17, 2001, through September 21, 2001. Dates, times and locations of the hearings were available through local media or through the offices of IDHW Regional Directors.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of the supporting reasons for temporary rulemaking:

The Department of Health and Welfare is piloting a "Utilization Management Program" for developmental disabilities services. If approved by the 2002 Legislature, the changes will be implemented across the state. The rule changes the standard criteria adopted by the Department of Health and Welfare to assess functional and cognitive abilities. For persons using Developmental Disabilities Agencies and DD/ISSH waivers the Uniform Assessment shall be the Utilization Management required testing at IDAPA 16.03.09, "Rules Governing the Medical Assistance Program", Sections 826 and 828.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(l)(b) and 67-5226(l)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: To confer a benefit and to protect public health, safety and welfare.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The Notice of Negotiated Rulemaking, IDAPA 16-0309-0103, was published in the April 4, 2001 Idaho Administrative Bulletin, Vol. 01-4, on page 29, regarding utilization management program. Per legislative intent, Quality Improvement Committees consisting of consumers and families, advocates, providers and State staff were involved. There have been many opportunities for review of draft rules by the Quality Improvement Committees through mailings and regularly scheduled meetings.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rules, contact Jean Christensen, Alternative Care Coordinator at (208) 364-1828.

DATED this 25th day of July, 2001.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Division of Legal Services  
450 West State Street, 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 332-7347 fax

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0323-0101**

**004. DEFINITIONS.**

- 01. Activities Of Daily Living.** Bathing, dressing, toileting, transferring, eating, and walking. (4-5-00)
- 02. Client.** A person for whom the State of Idaho, or a program administered by the State of Idaho, pays all or any part of the cost of the person's care. (4-5-00)
- 03. Department.** The Idaho Department of Health and Welfare. (4-5-00)
- 04. Instrumental Activities Of Daily Living.** Meal preparation, money management, transportation, shopping, using the telephone, medication management, heavy housework, and light housework. (4-5-00)
- 05. Service Plan.** A plan that describes the type and quantity of services that will be provided to a client, whether called a plan of care, plan for care, negotiated services agreement, individual support plan, or by some other name. (4-5-00)
- 06. Significant Change In Client's Condition.** A major change in the client's status that affects more than one area of the client's functional or health status, and requires review or revision of the care plan or negotiated service agreement. (4-5-00)
- 07. Supported Living Services.** Assistance with activities of daily living, instrumental activities of daily living, and supervision to enable a client to reside safely in the setting of the client's choice. (4-5-00)
- 08. Supported Living Services Provider.** A facility or person that provides supported living services. Such facilities and persons include nursing facilities, licensed residential and assisted living facilities, certified family homes, specialized family homes, personal care service providers, semi-independent facilities, intermediate care facilities for persons with mental retardation, and home and community-based services waiver providers. (4-5-00)
- 09. Uniform Assessment Or Uniform Assessment Instrument (UAI).** A set of standardized criteria adopted by the Department of Health and Welfare to assess functional and cognitive abilities. For purpose of a pilot, for persons using the Developmental Disabilities and Idaho State School and Hospital Waiver services and Developmental Disability Agencies services, Targeted Service Coordinator Services, the Uniform Assessment shall be the Utilization Management required testing and history at IDAPA 16.03.09, "Rules Governing the Medical Assistance Program in Idaho," Sections 826 and 828. ~~(4-5-00)~~(10-1-01)T

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.04.11 - RULES GOVERNING DEVELOPMENTAL DISABILITIES AGENCIES**

**DOCKET NO. 16-0411-0101**

**NOTICE OF TEMPORARY RULEMAKING**

**EFFECTIVE DATE:** The temporary rule is effective October 1, 2001.

**AUTHORITY:** In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted temporary rules. The action is authorized pursuant to Section(s) 39-4601 et. seq. and 56-1005(8), Idaho Code.

**PUBLIC HEARINGS:** The Department of Health and Welfare held hearings statewide for public comment during the week of September 17, 2001, through September 21, 2001. Dates, times and locations of the hearings were available through local media or through the offices of IDHW Regional Directors.

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

Establishes a requirement for DDAs in Region II to obtain prior authorization for DDA services to all consumers eighteen (18) or older through an Individual Support Plan during the pilot.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(l)(b) and 67-5226(l)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: To confer a benefit and to protect the public health safety and welfare.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The Notice of Negotiated Rulemaking regarding Utilization Management Program was published under Docket No. 16-0309-0103 in the April 4, 2001 Idaho Administrative Bulletin, Vol. 01-4, on page 29. Per legislative intent, Quality Improvement Committees consisting of consumer and families, advocates, providers and State staff were involved. There have been many opportunities for review of draft rules by the Quality Improvement Committees through mailings and regularly scheduled meetings.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rules, contact Diane Helton, Program Specialist at (208) 334-5512.

DATED this 25th day of July, 2001.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Division of Legal Services  
450 West State Street, 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone  
(208) 332-7347 fax

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0411-0101**

764. -- 7998. (RESERVED).

**799. STANDARDS FOR DDA'S PROVIDING SERVICES TO ADULTS IN REGION II.**

During the pilot program for utilization management described at IDAPA 16.03.09, "Rules Governing the Medical Assistance Program in Idaho," Sections 824 through 853, DDA services for adults in Clearwater, Idaho, Latah, Lewis, and Nez Perce counties are subject to the following exceptions: (10-1-01)T

**01. Targeted Service Coordinators.** Targeted Service Coordinators are not required to develop a transition plan. (10-1-01)T

**02. Access To Services.** Access to services shall be authorized through the Department or designee. (10-1-01)T

**03. Documentation.** A DDA does not have to provide documentation verifying that the services provided are recommended by a physician. (10-1-01)T

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.04.17 - RULES GOVERNING RESIDENTIAL HABILITATION AGENCIES**

**DOCKET NO. 16-0417-0101**

**NOTICE OF TEMPORARY RULEMAKING**

**EFFECTIVE DATE:** The temporary rule is effective October 1, 2001.

**AUTHORITY:** In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted temporary rules. The action is authorized pursuant to Section(s) 39-4601 et seq. and 56-1005(8), Idaho Code.

**PUBLIC HEARINGS:** The Department of Health and Welfare held hearings statewide for public comment during the week of September 17, 2001, through September 21, 2001. Dates, times and locations of the hearings were available through local media or through the offices of IDHW Regional Directors.

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

This rule change allows for a plan developer, as well as the Targeted Service Coordinator, to develop an Individual Support Plan for people who use Residential Habilitation Agency services.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(l)(b) and 67-5226(l)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: To confer a benefit and to protect the public health, safety and welfare.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The Notice of Negotiated Rulemaking regarding the Utilization Management Program, IDAPA 16-0309-0103, was published in the April 4, 2001 Idaho Administrative Bulletin, Vol. 01-4, on page 29. Per legislative intent, Quality Improvement Committees consisting of consumer and families, advocates, providers and State staff were involved. There have been many opportunities for review of draft rules by the Quality Improvement Committees through mailings and regularly scheduled meetings.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rules, contact Roseanne Hardin, Administrator, Division of Family and Community Services at (208) 334-5680.

DATED this 25th day of July, 2001.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Division of Legal Services  
450 West State Street, 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone  
(208) 332-7347 fax

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0417-0101**

**001. TITLE AND SCOPE.**

**01. Title.** These rules are to be cited as IDAPA 16.04.17, “Rules Governing Residential Habilitation Agencies”. (7-1-95)

**02. Scope.** These rules contain and establish standards and minimum requirements for residential habilitation agencies which provide services to persons with developmental disabilities under agreement and in connection with programs funded in any part by the Department of Health and Welfare. The provisions are intended to regulate agencies so that services to consumers will optimize consumer opportunities for independence and self-determination while assuring adequate supports, services, consumer satisfaction and health and safety. As a component of the service delivery system in Idaho for persons with developmental disabilities, residential habilitation agencies will provide individualized services and supports encouraging consumer choice, providing the greatest degree of independence possible, enhancing the quality of life, and maintaining community integration and participation. Services provided by such agencies are intended to be person-centered and consumer-driven, and based on a person centered plan to meet each consumer’s needs for self-sufficiency, medical care and personal development with goals that safely encourage each consumer to become a productive member of the community in which he lives. Access to these services for a pilot program shall be authorized through the Department’s utilization management program at IDAPA 16.03.09, “Rules Governing the Medical Assistance Program in Idaho.” Sections 824 through 853. For purposes of the pilot, development of or change to a plan of service may be performed by plan developers as well as Targeted Service Coordinators. (~~7-1-95~~)(10-1-01)T

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

**16.05.03 - RULES GOVERNING CONTESTED CASE PROCEEDINGS AND DECLARATORY RULINGS**

**DOCKET NO. 16-0503-0101**

**NOTICE OF TEMPORARY RULEMAKING**

**EFFECTIVE DATE:** The temporary rule is effective October 1, 2001.

**AUTHORITY:** In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted temporary rules. The action is authorized pursuant to Section(s) 56-202(b); 56-216; 56-1003(l),(2); 56-1004(l)(a); and 56-1005(8), Idaho Code.

**PUBLIC HEARINGS:** The Department of Health and Welfare held hearings statewide for public comment during the week of September 17, 2001, through September 21, 2001. Dates, times and locations of the hearings were available through local media or through the offices of IDHW Regional Directors.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of the supporting reasons for adopting the temporary rule: Allows consumers to obtain administrative review of adverse Idaho Medicaid decisions made in connection with the Utilization Management Project.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(l)(b) and 67-5226(l)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: to confer a benefit and necessary to protect the public health safety and welfare.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking in regards to the Utilization Management program, IDAPA 16-0309-0103, was conducted. The Notice of Negotiated Rulemaking was published in the April 4, 2001, Idaho Administrative Bulletin, Vol. 01-4, on page 29. Per legislative intent, Quality Improvement Committees consisting of consumer and families, advocates, providers and State staff were involved. There have been many opportunities for review of draft rules by the Quality Improvement Committees through mailings and regularly scheduled meetings.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rules, contact Jean Christensen, Alternative Care Coordinator at (208) 364-1828.

DATED this 25th day of July, 2001.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Division of Legal Services  
450 West State Street, 10th Floor  
P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 332-7347 fax

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0503-0101**

**302. UTILIZATION MANAGEMENT - ADMINISTRATIVE REVIEW.**

Consumers with developmental disabilities who are adversely affected by a Department decision regarding utilization management at IDAPA 16.03.09, "Rules Governing the Medical Assistance Program," may request an administrative review within twenty-eight (28) days from the date the decision was mailed. The review shall be performed by at least one (1) individual who was not involved in the original decision. The reviewer(s) shall consider all available information and shall issue a written decision within twenty-eight (28) days. (10-1-01)T

**3023. -- 399. (RESERVED).**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.05.04 - RULES OF THE IDAHO COUNCIL ON DOMESTIC VIOLENCE GRANT FUNDING**

**DOCKET NO. 16-0504-0101**

**NOTICE OF PROPOSED RULEMAKING**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 39-5207(2) and 39-5209, 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 November 21, 2001.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

Last update of the rules of the council was in 1990. Recent legislative changes to Chapter 52 of the Idaho Code need to be incorporated into the rules as well as updating existing rules. The rule change will incorporate the name change and additional assigned responsibilities of the Council as enacted by the Legislature. Other changes include updating the formatting of the chapter.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule change will add the additional assigned responsibilities of the Council as enacted by the Legislature and updating the format of the existing rules.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rules, contact Celia V. Heady at (208) 334-6512.

Anyone can submit written comments regarding this rulemaking. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before November 28, 2001.

DATED this 4th day of September, 2001.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Legal Services Division  
450 West State Street - 10th Floor  
P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 332-7347 fax

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0504-0101**

**IDAPA 16, TITLE 05, Chapter 04**

**16.05.04 - RULES OF THE IDAHO COUNCIL ON DOMESTIC VIOLENCE  
AND VICTIM ASSISTANCE GRANT FUNDING**

~~000. (RESERVED).~~

**0010. LEGAL AUTHORITY.**

Pursuant to Sections 39-5207(2) and 39-5209, Idaho Code, the Council on Domestic Violence and Victim Assistance is authorized to adopt rules to implement the provisions of the Domestic Violence Project Grants Act, as contained in Chapter 52, Title 39, Idaho Code. Furthermore, pursuant to Executive Order No. 85-18 and Section 39-5208(2), Idaho Code, the Council is authorized to administer such other funds as may be made available to accomplish in whole or in part any of the purposes of the laws or orders administered by the Council and to disseminate information on the availability of funds and the application process. (3-12-90)( )

**0021. TITLE AND PURPOSE.**

**01. Title.** These rules are to be cited as Idaho Department of Health and Welfare Rules, IDAPA 16.05.04, "Rules of the Idaho Council on Domestic Violence and Victim Assistance Grant Funding". (3-12-90)( )

**02. Purpose.** These rules hereby establish the Idaho Council on Domestic Violence and Victim Assistance and subsequent authority to award state and federal grants to programs in the state of Idaho which that provide aid to victims of crime. (3-12-90)( )

**03. Relationship To The Department Of Health And Welfare.** The Council on Domestic Violence and Victim Assistance is attached to the Department of Health and Welfare for fiscal and administrative purposes, and any grant awards, disbursement of funds, and other procedural matters must be in compliance with Department requirements. Programmatically the Council is independent of the Department. (3-12-90)( )

~~0032. -- 0043. (RESERVED).~~

**004. INCORPORATION BY REFERENCE.**

**01. General.** Unless provided otherwise, any reference in these rules to any document identified in Section 004 shall constitute the full incorporation into these rules of that document for the purposes of the reference, including any notes and appendices therein. The term "document" includes codes, standards, or rules which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association. ( )

**02. Availability Of Reference Material.** Copies of the documents incorporated by reference into these rules are available: ( )

a. At the Idaho Council on Domestic Violence and Victim Assistance, 450 West State Street, P.O. Box 83720, Boise, Idaho 83720-0036. ( )

b. On the internet at: <http://www2.state.id.us/crimevictim>. ( )

**03. Documents Incorporated By Reference.** The following documents are incorporated by reference into these rules: ( )

a. "Domestic Violence Program and Personnel Standards," published by the Idaho Council on Domestic Violence and Victim Assistance, effective November 20, 1998. ( )

b. "Minimum Standards for Batterer Treatment Programs," published by the Idaho Council on Domestic Violence and Victim Assistance, effective April 29, 1999. ( )

c. "Sexual Assault Program and Personnel Standards," published by the Idaho Council on Domestic Violence and Victim Assistance, effective April 27, 2001. ( )

~~005. -- 009. (RESERVED).~~

**00510. DEFINITIONS.**

For the purpose of these rules, the following terms are defined herein: (3-12-90)

**01. Conflict Of Interest.** No member of the Council on Domestic Violence and Victim Assistance may vote on any matter before the Council in which he has any substantial ownership, fiduciary, contractual, consultative, creditor, or directly competitive relationship and any such relationship shall be made publicly known. (~~3-12-90~~)(\_\_\_\_)

a. Appearance. In the use of grantor agency project funds, officials or employees of state or local units of government and nongovernmental grantees/subgrantees shall avoid any action which might result in, or create the appearance of: (3-12-90)

i. Using his official position for private gain; (3-12-90)

ii. Giving preferential treatment to any person; (3-12-90)

iii. Losing complete independence or impartiality; (3-12-90)

iv. Making an official decision outside official channels; or (3-12-90)

v. Adversely affecting the confidence of the public in the integrity of government or the program. (3-12-90)

b. Fiduciary. Exercising a position of trust on behalf of an organization or entity, including any trustee, member of the Board of Directors, officer, legal counsel, or any other person with a legal obligation to act in the best interest of such an organization or entity. (3-12-90)

**02. Contract.** The grant contract between the program and the Department Council which results from a Council on Domestic Violence and Victim Assistance grant award. (~~3-12-90~~)(\_\_\_\_)

**03. Council.** The Idaho Council on Domestic Violence and Victim Assistance as outlined in Section 39-5201, et seq., Idaho Code. (~~3-12-90~~)(\_\_\_\_)

**04. Department.** The Department of Health and Welfare. (3-12-90)

**05. Domestic Violence.** The physical injury, sexual abuse, or forced imprisonment or threat thereof of a family or household member. (3-12-90)

**06. Family Or Household Member.** One who is related by blood or marriage or who resides or has resided with, or who has been married to the person committing the domestic violence. (3-12-90)

**07. Region(s).** One (1) or the seven (7) regions of the Idaho Department of Health and Welfare as set out in Subsections 005.04.a. through 005.04.g. (3-12-90)

**011. -- 014. (RESERVED).**

**00615. GRANTS.**

**01. Family Violence Grant.** Money awarded to a program pursuant to the Family Violence Prevention and Services Act, Title III of the Child Abuse Amendments of 1984 P.L. 98-457,42 U.S.C. 10401, and any applicable rules and regulations. (3-12-90)

**02. State Domestic Violence Grant.** Money awarded to a program pursuant to Sections 39-5201 through 39-5213, Idaho Code (domestic violence project grants), and any applicable rules and regulations. (3-12-90)

**03. VOCA Grant.** Money awarded to a program pursuant to Victims of Crime Act of 1984, P.L. 98-473, Title II, Chapter XIV, 42 U.S.C. 10601, et seq. and any applicable rules and regulations. (3-12-90)

- 04. Regions.** The seven (7) regions of the Department of Health and Welfare are as follows: (3-12-90)
- a. REGION I - Benewah County, Bonner County, Boundary County, Kootenai County, Shoshone County. (3-12-90)
  - b. REGION II - Clearwater County, Idaho County, Latah County, Lewis County, Nez Perce County. (3-12-90)
  - c. REGION III - Adams County, Canyon County, Gem County, Owyhee County, Payette County, Washington County. (3-12-90)
  - d. REGION IV - Ada County, Boise County, Elmore County, Valley County. (3-12-90)
  - e. REGION V - Blaine County, Camas County, Cassia County, Gooding County, Jerome County, Lincoln County, Minidoka County, Twin Falls County. (3-12-90)
  - f. REGION VI - Bannock County, Bear Lake County, Bingham County, Caribou County, Franklin County, Oneida County, Power County. (3-12-90)
  - g. REGION VII - Bonneville County, Butte County, Clark County, Custer County, Fremont County, Jefferson County, Lemhi County, Madison County, Teton County. (3-12-90)

**05. Grant Applications.** Applications for grant funding which are obtained from the Department Council. These will have eligibility, legal and paperwork requirements for the grants administered by the Department Council. (~~3-12-90~~)( )

**~~007~~16. COUNCIL.**  
The Council shall: (3-12-90)

**01. Membership.** Pursuant to Section 39-5204, Idaho Code, consist of seven (7) members appointed by the Governor of Idaho. At least one (1) member shall reside in one of the seven (7) Department of Health and Welfare regions. Members shall be representative of persons who have been victims of domestic violence, care providers, law enforcement officials, medical and mental health personnel, counselors, and interested and concerned members of the general public. (3-12-90)

**02. Purpose.** Be the advisory body for programs and services affecting victims of crime. For budgetary purposes and for administrative support purposes, the Council is assigned by the Governor to the Department. (3-12-90)

**03. Grants Awards Process.** Award available state and federal grant money to eligible victims' services programs within the state of Idaho. The current available grants are: (3-12-90)

- a. State domestic violence; (3-12-90)
- b. Federal family violence; ~~and~~ (~~3-12-90~~)( )
- c. Federal VOCA-; and (~~3-12-90~~)( )
- d. State batterer treatment program grants. ( )

**04. Other Grants.** The Council may establish other state or federal grants which are authorized under Executive Orders and pursuant to Section 39-5208(2), Idaho Code. (3-12-90)

**~~008~~17. ELIGIBILITY.**

**01. State Domestic Violence Grants.** To be eligible for a state domestic violence grant, a program

must comply with all the applicable requirements of Chapter 52, Title 39, Idaho Code, as specified in Appendix A. A program must also comply with these rules and with any additional requirements in the grant applications, or that the Council may require. (3-12-90)

**02. Federal Family Violence Grant.** To be eligible for a federal family violence grant, a program must comply with all the applicable sections of the Family Violence and Services Act; and other federal rules and regulations and any additional requirements in the grant applications, or that the ~~Department~~ Council may require. (3-12-90)(\_\_\_\_)

**03. Federal VOCA Grant.** To be eligible for a federal VOCA grant, a program must comply with all the applicable sections of the Victims of Crime Act, any other federal rules and regulations which apply, these rules and any additional requirements listed in the grant applications, or that the ~~Department~~ Council may require. (3-12-90)(\_\_\_\_)

**04. Application Process.** The application process for grants under the grants including time frames for both submission and disposition of applications and the form and contents of applications for ~~initial, renewal, annual~~ or supplemental funding, is described in Section 0128. (3-12-90)(\_\_\_\_)

**~~009~~18. TIME FRAMES.**

**01. Grant Applications For ~~Initial~~ Annual Grants From The Council.** (3-2-90)(\_\_\_\_)

a. No less than once a year, the Department will publish a "Grant Applications" (GA) at least two (2) times (once a week for two (2) consecutive weeks, on the same day of the week) in a major daily newspaper in each service area. The GA will specify the deadline for submission of proposals. In no event will the deadline be less than sixty (60) days from the date of first publication of the GA. (3-12-90)

b. A copy of each GA will also be sent to current grantees and to persons and organizations who have requested timely notification of such announcement. Requests for advance notification of the solicitation of grant proposals should be directed to the Executive Director of the Council on Domestic Violence and Victim Assistance, P.O. Box. 83720, 450 West State Street, Boise, Idaho 83720 - 0036. (3-12-90)(\_\_\_\_)

c. Applications for ~~initial~~ annual grants must be postmarked or hand-delivered not later than the date designated in the "Grant Applications". (3-12-90)(\_\_\_\_)

**02. Proposals ~~For Renewal~~ Or Supplemental Grants.** (3-12-90)

~~a. Applications for renewal grants must be postmarked or hand-delivered not later than the date designated.~~ (3-12-90)

~~b. Applications for supplemental grants may be submitted for consideration at any time during the effective period of a grant.~~ (3-12-90)(\_\_\_\_)

**~~0109~~ 02. DISPOSITION OF APPLICATIONS.**

The Council shall act to deny or grant funding as specified below, and all applicants will be notified in writing as to the disposition of their application. (3-12-90)

**01. ~~Initial~~ Annual Applications.** The Council shall act to deny or grant funding for an ~~initial~~ annual application within ninety (90) days of the GA deadline. (3-12-90)(\_\_\_\_)

~~02. **Renewal Application.** Where a program has made timely and complete application for renewal of an existing grant, the Council shall act to deny or grant the issuance of such renewal prior to the date of expiration of the preceding grant.~~ (3-12-90)

**03. Supplemental Applications.** Allocation of supplemental funding shall be made based upon the availability of funds. (3-12-90)

**043. Late Applications.** An application for ~~initial~~ annual funding received after the deadline specified in any GA will be acted upon at a regularly-scheduled meeting of the Council, following consideration of all timely initial and renewal applications for the service area. (3-12-90)(\_\_\_\_)

**0420. EVALUATION OF APPLICATIONS.**

Applications from each region shall be evaluated according to the following criteria: (3-12-90)

**01. Threshold Factors.** Before an application is evaluated and ranked, an affirmative determination must be made that: (3-12-90)

- a. The applicant meets eligibility requirements as specified in Section 0017; and (3-12-90)(\_\_\_\_)
- b. The applicant has the administrative capacity, or has adequately described how provisions for that capacity will be made if not present at the time of application, to administer a grant including having, contracting for, or obtaining staff and expertise to: (3-12-90)
  - i. Provide proper management and maintain the proper records; and (3-12-90)
  - ii. Assure fiscal control and efficient disbursement of grant funds; and (3-12-90)
  - iii. Fulfill grant requirements including meeting reporting requirements; and (3-12-90)
  - iv. Provide the proposed services. (3-12-90)

**02. Conflict Of Interest.** Under the following circumstances, a Council member shall declare a conflict of interest in writing to the Executive Director and subsequently refrain from evaluating or ranking, or casting a vote to award a grant to: (3-12-90)

- a. An applicant on whose board of directors or advisory board the Council member or a member of her immediate family serves; or (3-12-90)
- b. An applicant employing the Council member or a member of her immediate family; and (3-12-90)

**03. Evaluation Criteria.** The ~~department~~ Council shall use the following criteria to evaluate applications: (3-12-90)(\_\_\_\_)

- a. Assessment of existing victim services in the community and demonstrated need for proposed services in the area. (3-12-90)
- b. Scope of services or number of eligible activities to be provided. (3-12-90)
- c. Estimated number of clients to be served and expansion potential, if any. (3-12-90)
- d. Knowledge and use of other available funding sources or fund-raising activities. (3-12-90)
- e. Involvement and coordination with community resources including identification of sources of victim access. (3-12-90)
- f. Recruitment efforts for volunteers to meet the specific needs of the program and the community. (3-12-90)
- g. Performance record of past activities, if any, including: (3-12-90)
  - i. Creative use of volunteers; (3-12-90)
  - ii. Training of volunteers; (3-12-90)

- iii. Fund-raising activities; (3-12-90)
- iv. Administrative performance; (3-12-90)
- v. Degree of incorporation of self-help activities into program; and (3-12-90)
- vi. Education service to community. (3-12-90)
- h. Cooperation with other area domestic violence and victim assistance programs to insure services to all areas and victims without duplicating services. (3-12-90)

**0421. ON-SITE EVALUATIONS.**

**01. Initial Evaluation.** Prior to the awarding of an initial grant, the Department is authorized to conduct an on-site evaluation of the program to ensure that the program is in substantial compliance with these rules and to determine the capability of the program to provide the services for which funding is requested. The program must provide for review of any and all client records, program records, financial statements and other documents needed by the ~~Department~~ Council to make its determination, including any information that may have changed since the time the application was submitted. ~~(3-12-90)~~(\_\_\_\_)

**02. Follow-Up Evaluations.** In addition to any initial on-site evaluation, the ~~Department~~ Council is authorized, upon reasonable notice to the program, to conduct such on-site evaluations of the program: ~~(3-12-90)~~(\_\_\_\_)

- a. To determine continued compliance with these rules and other applicable requirements; or (3-12-90)
- b. To determine the continued capability of the program to provide the services for which funding has been granted. (3-12-90)

**0432. DOMESTIC VIOLENCE GRANT DISTRIBUTION.**

Domestic violence project grants will be awarded in the following manner: (3-12-90)

**01. Distribution Of Domestic Violence Grants To Regions.** On an annual basis, following determination by the ~~Department~~ Council of the total funds available for domestic violence grant awards for the following fiscal year, the ~~Department~~ Council shall establish and announce the base level of funding available for each region. ~~(3-12-90)~~(\_\_\_\_)

a. In accordance with Section 39-5212, Idaho Code, not less than fifty-one percent (51%) of available grant funds will be allocated to programs within the seven (7) regions in the proportion that marriage licenses are filed in each region, based on statistics compiled by the state registrar of Vital Statistics. (3-12-90)

b. The allocation of the remaining percentage of available grant funds shall be established and announced annually in varying percentages based on consideration of the following and in the order of priority shown below: (3-12-90)

i. Identification of critical needs and evidence of relative distribution of victim population within the state. (3-12-90)

ii. Calculation of a population/area factor, using current U.S. census data and employing the following formula: (3-12-90)

(1) Multiply the population of a region by two (2) and divide the product by the total state population; and (3-12-90)

(2) Divide the square miles for a region by the total square miles for the state and add the resulting figure to the figure determined by calculating the amount as set out in Subsection 0422.01.b.i.(1). ~~(3-12-90)~~(\_\_\_\_)

(3) Divide the sum by three (3), yielding a percentage figure which represents the population/area factor for the region. (3-12-90)

iii. Identification of programs with statewide applicability. (3-12-90)

c. In the event that proposals received from eligible applicants within a given region are insufficient and/or inadequate or that grants awarded are not accepted or grant agreements finalized on a timely basis, or a grant is terminated prior to the completion date, the ~~Department~~ Council shall solicit qualified new or supplemental proposals from the region and will hold the funds available for the region for a period of six (6) months. (~~3-12-90~~)(\_\_\_\_)

d. Any domestic violence grant funds not obligated or expended during any award period will be apportioned by the Council at its discretion. (3-12-90)

**02. Distribution Of Domestic Violence Grants Within The Regions.** (3-12-90)

a. Programs shall be selected through a comparative application process; and (3-12-90)

b. Applicants shall be compared only with other applicants from the same region; and (3-12-90)

c. The ~~Department~~ Council is not obligated to select or approve any proposal received. (~~3-12-90~~)(\_\_\_\_)

**03. Timing And Duration Of Grant Awards.** Grant awards under the domestic violence grants project shall be made for a period not to exceed one (1) year unless revoked. Actual funds shall be distributed in accordance with the schedule of payments established for each grant. (3-12-90)

**~~01423.~~ VICTIM ASSISTANCE GRANT DISTRIBUTION.**

Victim assistance grants will be awarded in the following manner: (3-12-90)

**01. Distribution Of Victim Assistance Grants To Priority Categories And Regions.** On an annual basis, following the ~~Department's~~ Council's receipt of an award letter from the U.S. Justice Department announcing the amount available for victim assistance grants for the following fiscal year, the Council shall establish and announce the base level of funding available for the priority categories and for each region. Determination of the actual percentage and amount of funds to be allocated for the priority and other categories for the regions, and for statewide projects will be based on data available to the ~~Department and~~ Council. (~~3-12-90~~)(\_\_\_\_)

a. Allocations for Priority and Other Categories. The Council shall allocate the federal crime victim assistance funds awarded to Idaho to programs by complying with regulations of the Victims of Crime Act of 1989, P.L. 98-473, Title II, Chapter XIV, 42 U.S.C. 10601, et seq. (3-12-90)

b. Allocations for Service Areas. (3-12-90)

i. The Council shall allocate the victim assistance funds by region based on a population/area factor, as outlined in Subsection ~~0722~~.01.b.ii. (~~3-12-90~~)(\_\_\_\_)

ii. At its discretion, the Council may reserve a portion of the victim assistance grant funds for programs with statewide applicability. (3-12-90)

c. Any victim assistance grant funds not obligated or expended during any award period shall be apportioned by the Council at its discretion, within the established federal limits governing use of the funds. (3-12-90)

**02. Distribution Of Victim Assistance Grants Within Priority Categories And Regions.** Grants shall be awarded through comparison and consideration of applications within a region according to the category of victim services being proposed. The Council is not obligated to select or approve any proposal received. (3-12-90)

**03. Timing And Duration Of Grant Awards.** Grant awards made under the victim assistance grants

project shall be made for a period not to exceed one (1) year unless revoked. Actual funds shall be distributed in accordance with the schedule of payments established for each grant. (3-12-90)

**01524. FAMILY VIOLENCE GRANT DISTRIBUTION.**

Family violence grants shall be awarded on an annual basis, following receipt of an award letter from the United States Department of Health and Human Services, announcing the amount available for family violence grants for the following fiscal year. The Council shall establish and announce the funding available for each Region based upon the following allocation. (3-12-90)

**01. Allocation.** If all seven (7) regions have qualified and eligible applicants, the amount available shall be divided by seven (7). If not all regions have qualified and eligible applicants, the amount available shall be divided by the number of regions that have qualified and eligible applicants. The Council is not obliged to accept or approve any proposal received. (3-12-90)

**02. Timing And Duration Of Grant Awards.** Grant awards made under the family violence grant project will be made for a period not to exceed one (1) year, unless revoked by the Council. Actual funds shall be distributed in accordance with the payment scheduled for each grant. (3-12-90)

**01625. -- 030. (RESERVED).**

**031. AWARDING OF GRANTS.**

Notification of grant awards shall be accomplished through preparation and issuance of a contract specifying, at a minimum, the eligible activities for which the grant is to be awarded, including the beginning and termination dates of the grant; the amount of the grant award; the schedule of payments; and any terms and conditions additional to these rules which are agreed to by the parties. (3-12-90)

**01. Acceptance Of Grant Award By Grantee.** Acceptance of the grant award is to be accomplished by returning ~~three two~~ (32) copies of the contract bearing the original, ~~notarized~~ signature of the duly authorized representative of the grantee. The copies of the signed contract are to be returned to the Council within fifteen (15) days of the date of the letter transmitting the agreement to the grantee. (3-12-90)(\_\_\_\_)

**02. Approval Or Grant Agreement.** The agreement will be deemed approved and the grant effective upon the effective date specified in the agreement when signed by the authorized official for the ~~Department Council~~. If more than sixty (60) days have elapsed between the stated effective date and the date the agreement is signed for the ~~Department Council~~: (3-12-90)(\_\_\_\_)

a. There will be no penalty or reduction of funding if the delay was attributable to the ~~Department Council~~. (3-12-90)(\_\_\_\_)

b. The program may face a reduction in funding and renegotiation of the agreement if the delay was attributable to the program. (3-12-90)

**(BREAK IN CONTINUITY OF SECTIONS)**

**034. PAYMENT PROCEDURES.**

Procedures for payment will be set out in the contract issued by the ~~Department Council~~. (3-12-90)(\_\_\_\_)

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.06.01 - RULES GOVERNING FAMILY AND CHILDREN'S SERVICES**

**DOCKET NO. 16-0601-0101**

**NOTICE OF TEMPORARY AND PROPOSED RULEMAKING**

**EFFECTIVE DATE:** The temporary rule is effective July 1, 2001.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 16-1624;16-2001; 16-2402; 56-202(b); 56-203(b); 56-204 (a), (A); 56-1003 and 56-1004, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Pursuant to Section 67-5222(2), Idaho Code, 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 November 21, 2001.

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:

Rule changes are being made in response to state statutory and federal regulatory changes. Primary areas of substantive change are as follows: No information, regarding parent(s) who place their child at a Safe Haven consistent with Idaho Code's Safe Haven Act, will be entered into the State Child Abuse Registry. This includes no entry of a "Valid" disposition. Emergency Assistance can now be authorized by any approved Department worker. Authorization is no longer limited to Family and Children's Services. Legal guardianship and guardianship assistance are defined. Guardianship Assistance is available to a legal guardian only for children who would otherwise remain in Department guardianship. These are children whose parents' rights have been terminated. Services that constitute guardianship assistance are delineated. Standardized measurement of substantial impairment for a child to qualify for Children's Mental Health Services is added. Relatives who adopt are no longer eligible for non-recurring adoption assistance per Federal regulation. An annual reporting must be made as to the number of international adoption disruptions in each state.

**TEMPORARY RULE JUSTIFICATION:** Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to comply with deadlines in amendments to governing law or federal programs and to confer a benefit.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rulemaking was conducted to comply with amendments to governing law.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary or proposed rule, contact Chuck Halligan, Bureau Chief of Family and Children's Services at (208) 334-6559.

Anyone can submit written comments regarding this proposed rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before November 28, 2001.

DATED this 27th day of July, 2001.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Division of Legal Services  
450 West State Street, 10th Floor  
P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone, (208) 332-7347 fax

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0601-0101**

**006. INCORPORATION BY REFERENCE.**

There are no documents incorporated by reference into this chapter of rules.

(7-1-01)T

**0067. -- 009. (RESERVED).**

**010. DEFINITIONS AND ABBREVIATIONS.**

For the purposes of the rules contained in Idaho Department of Health and Welfare Rules, IDAPA 16.06.01, "Rules Governing Family and Children's Services," the following terms and abbreviations are used as defined herein:

(3-18-99)

**01. IV-E Foster Care.** Child care provided in lieu of parental care in a foster home, children's agency or institution eligible to receive Aid to Dependent Children under Title IV-E of the Social Security Act. (3-18-99)

**02. Adoption Assistance.** Funds provided to adoptive parents of children who have special needs and/or could not be adopted without financial or medical assistance. (3-18-99)

**03. Adoption Services.** Protective service through which children are provided with permanent homes, under new legal parentage, including transfer of the mutual rights and responsibilities that prevail in the birth parent-child relationship. (3-18-99)

**04. Alternate Care.** Temporary living arrangements, when necessary for a child to leave his own home, through a variety of foster care, respite care, residential treatment and institutional resources, in accordance with the protections established in Public Law 96-272, the federal "Adoption Assistance and Child Welfare Act of 1980" as amended by Public Law 105-89, the Adoption and Safe Families Act of 1997, the Child Protective Act, Section 16-1601 et seq., Idaho Code, and the Indian Child Welfare Act. (3-30-01)

**05. Alternate Care Plan.** A federally required component of the Family Plan for children in alternate care. The alternate care plan contains elements related to reasonable efforts, the family's plan, child's alternate care provider, compelling reasons for not terminating parental rights, Indian status, education, immunization, medical and other information important to the day-to-day care of the child. (7-1-01)T

**056. Assessment.** First step in the planning process which results in systematic documentation of the family's issues of concern, their strengths, and desired outcomes. (3-30-01)

**067. Board.** The Idaho State Board of Health and Welfare. (3-18-99)

**078. Case Management.** A change oriented service to families that assures and coordinates the provision of family risk assessment, case planning, treatment and other services, protection, advocacy, review and reassessment, documentation and timely closure of a case. (3-18-99)

**089. Case Plan.** See "Family Plan". (3-18-99)

**0910. Central Office.** The state level administrative office of the Department of Health and Welfare located in Boise, Idaho. (3-18-99)

**101. Child Mental Health.** All of the following children under eighteen (18) years of age shall be served without regard to income or type of health insurance: (3-30-01)

a. Those who have a serious emotional disturbance or a grave disability due to a serious mental illness; and (3-30-01)

b. Present a significant risk of harm to themselves or to others, due to their mental illness; and

- (3-30-01)
- c. Because of their mental illness are at risk for out-of-home placements or are currently in out-of-home placement and lack adequate resources to participate in their community's non-public system of care; or (3-30-01)
- d. Are involuntarily committed to the Department for out-of-home placement. (3-30-01)
- 142. Child Mental Health Services.** Services provided in response to the needs of children with a serious emotional disturbance and their families. These services are provided in accordance with the provisions of Section 16-2402 et seq., Idaho Code, the "Children's Mental Health Services Act". (3-30-01)
- 123. Child Protection.** All children under eighteen (18) who have been harmed or threatened with harm by a person responsible for their health or welfare through non-accidental physical or mental injury, sexual abuse (as defined by state law) or negligent treatment or maltreatment, including the failure to provide adequate food, clothing or shelter shall be served without regard to income. (3-30-01)
- 134. Child Protective Services.** Services provided in response to potential, alleged or actual abuse, abandonment or neglect of individuals under the age of eighteen (18) in accordance with the provisions of Section 16-1601 et seq., Idaho Code, the "Child Protective Act". (3-18-99)
- 145. Compact Administrator.** The individual designated to coordinate interstate transfers of persons requiring special services in accordance with the provisions of Section 16-21-1 et seq., Idaho Code; "Interstate Compact on the Placement of Children," Section 16-1901 et seq., Idaho Code; or the "Interstate Compact on Mental Health," Section 66-1201 et seq., Idaho Code; or the "Interstate Compact on Adoption and Medical Assistance," Section 39-7501 et seq., Idaho Code. (3-18-99)
- 156. Concurrent Planning.** Planning which addresses a child's need for a permanent family by working toward family reunification while, at the same time, developing an alternative plan that will provide permanency for the child through adoption, guardianship, placement with a relative or other permanent placement. (3-30-01)
- 167. DHW Regions.** Seven (7) geographically defined regions which serve as administrative units for the delivery of social services through local Department local offices. (3-18-99)
- 178. Day Care For Children.** Care and supervision provided for compensation during part of a twenty-four (24) hour day, for a child or children not related by blood or marriage to the person or persons providing the care, in a place other than the child's or children's own home or homes. (3-18-99)
- 189. Day Treatment Services.** Intensive nonresidential services that include an integrated set of educational, clinical, social, vocational and family interventions provided on a regularly scheduled, typically daily, basis. (3-18-99)
- 1920. Department.** The Idaho Department of Health and Welfare. (3-18-99)
- 201. Director.** The Director of the Department of Health and Welfare or designee. (3-18-99)
- 212. Emergency Assistance To Families.** Social services, crisis or crisis avoidance payments and placement services authorized by ~~FACS~~ Department workers for Emergency Assistance eligible families to meet emergency need(s). (~~3-18-99~~)(7-1-01)T
- 223. Extended Family Member Of An Indian Child.** As defined by the law, or custom of an Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen (18) and who is an Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent. (3-30-01)
- 234. FFP.** Federal Financial Participation. (3-18-99)

- 245. Family.** Related individuals including birth or adoptive immediate family members, extended family members and significant other individuals, who are included in the family plan. (3-18-99)
- 256. Family And Children's Services (FACS).** Those programs and services directed to families and children, administered by the Department and provided in accordance with these rules. (3-18-99)
- 267. Family Assessment.** An ongoing process based on information gained through a series of meetings with a family to gain mutual perception of strengths and resources that can support them in creating long-term solutions related to identified service needs and/or safety issues that threaten family integrity, unity or the ability to care for their members. (3-18-99)
- 278. Family Case Record.** Electronic and hard copy compilation of all documentation relating to a family, including, but not limited to, legal documents, identifying information, and evaluations. (3-30-01)
- 289. Family Centered Services.** An approach to the delivery of social services that focuses on families rather than individuals. Services are based on assessment of the entire family and a negotiated family plan designed to strengthen and maintain the family, while ensuring the safety, well being and permanency of children. (3-30-01)
- 2930. Family Plan.** Also referred to as Service Plan. A written document that serves as the guide for provision of services. The plan, developed with the family, clearly identifies who does what, when, how and why. The family plan incorporates any special plans made for individual family members. If the family includes an Indian child, or child's tribe, tribal elders and/or leaders should be consulted early in the plan development. (3-30-01)
- 301. Family Services Worker.** Any of the direct service personnel, including social workers, psychologists, counselors and family therapists, working in regional Family and Children's Services Programs. For purposes of pre-placement home studies, adoption home studies, reports to the court under the Termination of Parent and Child Relationship and Adoption of Children Acts, and Placement Supervision Reports, "family services workers" also include licensed counselors or psychologists, or individuals who have at least bachelor's degrees in social work, marriage and family therapy, or other social sciences. (3-30-01)
- 342. Field Office.** A Department of Health and Welfare service delivery site. (3-18-99)
- 323. Goal.** A statement of the long term outcome or plan for the child and family. (3-18-99)
- 34. Guardianship Assistance.** State and Federal benefits provided to legal guardian(s) for the support of a child who would otherwise remain in the guardianship of the Department of Health and Welfare. (7-1-01)T
- 335. Independent Living.** Services provided to eligible foster or former foster youth ages fifteen (15) to twenty-one (21) designed to support a successful transition to adulthood. (3-30-01)
- 346. Indian.** Any person who is a member of an Indian tribe or who is an Alaska Native and a member of a Regional Corporation as defined in 43 U.S.C. 1606. (3-18-99)
- 357. Indian Child.** Any unmarried person who is under the age of eighteen (18) who is: (3-18-99)
- a. A member of an Indian tribe, or (3-18-99)
  - b. Eligible for membership in an Indian tribe and the biological child of a member of an Indian tribe. (3-18-99)
- 368. Indian Child Welfare Act (ICWA).** The Indian Child Welfare Act, 25 U.S.C. 1901, et seq. (3-18-99)
- 379. Indian Child's Tribe.** (3-18-99)
- a. The Indian tribe in which an Indian child is a member or eligible for membership, or (3-18-99)

b. In the case of an Indian child who is a member of or eligible for membership in more than one (1) tribe, the Indian tribe with which the Indian child has the more significant contacts. (3-18-99)

**3840. Indian Tribe.** Any Indian Tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians, including any Alaska Native village as defined in 43 U.S.C. 1602(c). (3-18-99)

**3941. Information And Referral Services.** A service which enables individuals to gain access to human services through providing accurate, current information on community and Department resources. (3-30-01)

**42. Intercountry Adoption Act of 2000 (P.L. 106-279).** Federal law designed to protect the rights of, and prevent abuses against children, birth families, and adoptive parents involved in adoptions (or prospective adoptions) subject to the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, and to insure that such adoptions are in the children's best interests; and to improve the ability of the federal government to assist U.S. citizens seeking to adopt children from abroad and residents of other countries party to the Convention seeking to adopt children from the United States. (7-1-01)T

**403. Interethnic Adoption Provisions Of 1996 (IEPA).** IEPA prohibits delaying or denying the placement of a child for adoption or foster care on the basis of race, color or national origin of the adoptive or foster parent, or the child involved. (3-30-01)

**414. Issue.** Circumstances which brought a child and family to the attention of the Department. These circumstances typically involve safety issues which put the child at risk of harm. (3-30-01)

**425. Kin.** Non-relatives who have a significant, family-like relationship with a child. Kin may include godparents, close family friends, clergy, teachers and members of a child's Indian tribe. Also known as fictive kin. (3-30-01)

**436. Kinship Care.** Alternative care that is provided by kin. (3-30-01)

**47. Legal Guardianship.** A judicially created relationship, including one made by a tribal court, which names a relative or non-relative as the legal guardian(s) of a child. For purposes of these rules a child must be in Department guardianship at the time the Petition for Legal Guardianship is filed with the court. (7-1-01)T

**448. Licensed.** Facilities or programs being licensed in accordance with the provisions of Idaho Department of Health and Welfare Rules IDAPA 16.06.02, "Rules and Standards for Child Care Licensing". (3-18-99)

**459. Licensing.** See Idaho Department of Health and Welfare Rules, IDAPA 16.06.02, "Rules and Standards for Child Care Licensing," Section 100. (3-18-99)

**4650. Medicaid.** See "Title XIX". (3-30-01)

**4751. Multiethnic Placement Act Of 1994 (MEPA).** MEPA prohibits states or public and private foster care and adoption agencies that receive federal funds from delaying or denying the placement of any child solely on the basis of race, color or national origin. (3-18-99)

**4852. Objective.** Behaviorally specific description of how the family circumstances will look when the risk factors which brought a child and family to the Department's attention, either no longer exist or are significantly reduced. (3-30-01)

**4953. Permanency Planning.** A primary function of family services initiated in all cases to identify programs, services and activities designed to establish permanent home and family relationships for children within a reasonable amount of time. (3-18-99)

**504. Personal Care Services (PCS).** Services to eligible Medicaid recipients that involve personal and medically oriented tasks dealing with the physical or functional impairments of the individual. (3-18-99)

- ~~545.~~ **P.L. 96-272.** Public Law 96-272, the federal "Adoption Assistance and Child Welfare Act of 1980". (3-30-01)
- ~~526.~~ **P.L. 105-89.** Public Law 105-89, the federal "Adoptions and Safe Families Act of 1997", amends P.L. 96-272 and prohibits states from delaying or denying cross-jurisdictional adoptive placements with an approved family. (3-30-01)
- ~~537.~~ **Planning.** An orderly rational process which results in identification of goals and formulation of timely strategies to fulfill such goals, within resource constraints. (3-30-01)
- ~~548.~~ **Prevention.** Programs, services and activities aimed at preventing child abuse and neglect and severe emotional disturbance. (3-30-01)
- ~~559.~~ **Protective Services.** To provide assistance in response to potential, actual or alleged neglect, abuse or exploitation of children. (3-18-99)
- ~~560.~~ **Purchase Of Services.** Provision of services to children and families by local agencies or individuals who contract with DHW. (3-30-01)
- ~~5761.~~ **Qualified Expert Witness--ICWA.** A person who is most likely to be a qualified expert witness in the placement of an Indian child is: (3-18-99)
- a. A member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs pertaining to family organization and child rearing practices; (3-18-99)
- b. An individual who is not a tribal member who has substantial experience in the delivery of child and family services to Indians and extensive knowledge of prevailing social and cultural standards and child rearing practices within the Indian child's tribe; (3-18-99)
- c. A professional person who has substantial education and experience in a pertinent specialty area and substantial knowledge of prevailing social and cultural standards and child rearing practices within the Indian community; or (3-18-99)
- d. An individual regarded as being a qualified expert who is referred by the Indian child's tribe, the Department's ICWA Specialist, or the Bureau of Indian Affairs. (3-18-99)
- ~~5862.~~ **Relative.** Person related to a child by blood, marriage, or adoption. (3-30-01)
- ~~5963.~~ **Reservation.** Indian country as defined in 18 U.S.C. Section 1151, and any lands, not covered under such section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation. Such term includes but is not limited to the Kootenai Reservation, the Coeur d'Alene Reservation, the Nez Perce Reservation, the Duck Valley Reservation, and the Shoshone-Bannock Reservation. (3-18-99)
- ~~604.~~ **Respite Care.** Time limited care provided to children. Respite care is utilized in circumstances which require short term, temporary placement of a child from the home of their usual care giver to that of another licensed or agency approved family. In general, the duration of a respite placement is from one (1) to fourteen (14) days. (3-30-01)
- ~~615.~~ **Risk Assessment.** Standardized protocol for contact between a family services worker and a family to objectively determine if safety issues, risk issues or immediate service needs exist, which require further Family and Children's Services response. (3-30-01)
- ~~626.~~ **SSI (Supplemental Security Income).** Income maintenance grants for eligible persons who are aged, blind or disabled. These grants are provided under Title VI of the Social Security Act and are administered by the Social Security Administration and local Social Security Offices. (3-18-99)

**637. Safety Plan.** Plan developed by the Department and a family which assures the immediate safety of a child who has been determined to be conditionally safe or unsafe. (3-30-01)

**648. Self-Reliance Services.** Supportive social services provided to individuals and their families to increase their ability to obtain and retain employment. (3-18-99)

**659. Serious Emotional Disturbance (SED).** An emotional or behavioral disorder or a neuropsychiatric condition which results in a serious disability, which requires sustained treatment interventions and causes the child's functioning to be impaired in thought, perception, affect and/or behavior. A disorder shall be considered to be a serious disability if it causes substantial impairment in functioning in family, school and/or community as measured by a Department of Health and Welfare approved standardized assessment tool. A substance abuse disorder ~~and~~/or conduct disorder, and/or developmental disorder, alone does not constitute a serious emotional disturbance, although one (1) or more of these conditions may co-exist with serious emotional disturbance. ~~(3-18-99)~~(7-1-01)T

**6670. Social Service Block Grant.** The social service block grant funds are federal funds provided to states to assist in the development of comprehensive social service programs to help those with special needs to achieve and maintain a greater degree of economic self support and self reliance, to prevent neglect, abuse, or exploitation of children and adults who are unable to protect their own interests, to prevent or reduce inappropriate institutional care, and to secure referral or admission for institutional care when other forms of care are not appropriate. (3-18-99)

**671. TAFI.** Temporary Assistance to Families in Idaho. (3-18-99)

**6872. Target Population.** Group of persons, residing within a defined geographical area, who are identified as being at risk for an adverse social or health condition or combination of conditions and whom the program is designed to serve. (3-18-99)

**6973. Title IV-A.** Title under the Social Security Act which provides public assistance to families with dependent children and is commonly identified as Aid to Families with Dependent Children (AFDC), repealed in 1997 except for eligibility requirements for Title IV-E. (3-18-99)

**704. Title IV-B.** Title under the Social Security Act which provides Child Welfare Services. This categorical service program is aimed at improving the general welfare of children regardless of income. (3-18-99)

**715. Title IV-E.** Title under the Social Security Act which provides funding for foster care maintenance (formerly provided for under Title IV-A of the Social Security Act) and adoption assistance payments for certain eligible children. (3-18-99)

**726. Title XIX (Medicaid).** Title under the Social Security Act which provides "Grants to States for Medical Assistance Programs". (3-18-99)

**737. Title XXI.** (Children's Health Insurance Program). Title under the Social Security Act which provides access to health care for uninsured children under the age of nineteen (19). (3-18-99)

**748. Tribal Court.** A court with jurisdiction over child custody proceedings and which is either a Court of Indian Offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings. (3-18-99)

**759. Unmarried Parents' Services.** Unmarried parents' services are aimed at achieving or maintaining self-reliance or self-support for unmarried parents. These services include counseling for all unmarried parents who need such service in relation to their plans for their children and arranging for and/or paying for prenatal and confinement care for the well-being of the parent and infant. (3-18-99)

**7680. Voluntary Services Agreement.** A written and executed agreement between the Department and parents regarding the goal, issues, objectives and task responsibility including payment. A children's mental health

family services plan is the Voluntary Service Agreement.

(3-30-01)

**(BREAK IN CONTINUITY OF SECTIONS)**

**050. PROTECTIONS AND SAFEGUARDS FOR CHILDREN AND FAMILIES.**

The federal and state laws which are the basis for these rules include a number of mandatory protections and safeguards which are intended to assure timely permanency for children and to protect the rights of children, their families and their tribes.

(3-30-01)

**01. Reasonable Efforts.** Services offered or provided to the family intended to prevent removal of the child from the family, to reunify a child with their family, to finalize a permanent plan, or prevent a seriously emotionally disturbed child from having to move to a more restrictive setting. Efforts must be made as follows and specifically documented by the Department in reports to the court. The court will make the determination of whether or not the efforts were reasonable:

(3-30-01)

a. Reasonable efforts to prevent or eliminate the need for a child to be removed from his home; and

(3-30-01)

b. Reasonable efforts to return a child home, if possible, as soon as it is safe to do so, or in the case of a judicial determination of aggravated circumstances, reasonable efforts to return a child home are not required; and

(3-30-01)

c. Reasonable efforts to finalize a permanent plan so that each child in the Department's care will have a family with whom the child can have a safe and permanent home.

(3-30-01)

**02. Active Efforts.** For an Indian child, a description of the active efforts made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family; that these efforts have proved unsuccessful; and that based on qualified expert information, continued custody by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

(3-18-99)

**03. ICWA Preferences.** If appropriate, application of the placement preference for placement in accordance with the Indian Child Welfare Act, or a detailed explanation of good cause for not applying the preferences.

(3-18-99)

**04. Least Restrictive Setting.** Efforts shall be made to assure that any child in the Department's care, especially those children in care due to an emotional or behavioral disturbance, reside in the least restrictive, most family-like setting possible. Placement shall be made in the least restrictive setting and in close proximity to the parents or if not, written justification that the placement is in the best interest of the child. For an Indian child, placement in the least restrictive setting is that setting which most approximates a family and is within reasonable proximity to the child's home taking into account any special needs of the child.

(3-30-01)

**05. Legal Requirements For Indian Children.** In the case of an Indian child, notice of the pending proceeding shall be sent by Certified Mail, Return Receipt Requested to the parent or Indian custodian and the Indian child's tribe, including notice of their right to intervene; their right to twenty (20) days additional time to prepare for the proceeding; the right to appointment of counsel if the parent or Indian custodian is indigent; the right to examine all documents filed with the court upon which placement may be based; and the right to withdraw consent to a voluntary foster placement.

(3-30-01)

**06. Visitation For ~~Birth~~ Child's Legal Parents.** ~~Arrangements for~~ Visitation arrangements shall be provided to the ~~birth parents~~ child's legal parents unless visitation is contrary to the child's safety. ~~(3-18-99)~~ (7-1-01)T

**07. Notification Of Change In Placement.** Written notification to the ~~birth~~ child's legal parents within seven (7) days of a change of placement of the foster child if a child is relocated to another foster care setting, or similar notice to the parent or Indian custodian of an Indian child, and the Indian child's tribe, which includes the

information described in Section 051 entitled Notice Required for ICWA. (~~3-30-01~~)(7-1-01)T

**08. Notification Of Change In Visitation.** Written notification ~~that birth~~ to the child's legal parents ~~shall be notified in writing~~ if there is to be a change in their visitation schedule with their child in foster care. (~~3-18-99~~)(7-1-01)T

**09. Notification Of Right To Participate And Appeal.** A ~~Written statement that birth~~ notification to the child's legal parents shall be ~~notified in writing of~~ made regarding their right to discuss any changes and the opportunity to appeal if they disagree with changes in placement or visitation. (~~3-18-99~~)(7-1-01)T

**10. ICWA Placement Preferences.** Compliance with the foster care placement preferences of the Indian Child Welfare Act. (3-18-99)

**11. Compliance With Requirements Of The Multiethnic Placement Act And Interethnic Adoption Provisions.** (3-30-01)

**12. Family Decision Making And Plan Development.** (3-30-01)

a. A family plan shall be completed within thirty (30) days of the date the case was opened. (3-30-01)

b. Families shall be given ample opportunity to participate in the identification of issues, their strengths and developing service objectives and tasks. The family plan and any changes to it shall be signed and dated by the family. If the family refuses to sign the plan, the reason for their refusal shall be documented on the plan. (3-30-01)

c. Plans are to be reviewed with the family no less frequently than once every three (3) months. When there are major changes to the plan including a change in the long term goal, the family plan must be renegotiated by the Department and the family as well as signed by the family. A new plan must be negotiated at least annually. (3-30-01)

**13. Compelling Reasons.** Reasons why the parental rights of a parent of a child in the Department's care and custody should not be terminated when the child has been in the custody of the Department for fifteen (15) out of the ~~last~~ most recent twenty-two (22) months. These reasons must be documented in the Alternate Care Plan, in a report to the court, and the court must make a determination if the reasons are sufficiently compelling. A compelling reason must be documented ~~in the Alternate Care Plan and in a report to the court~~ when a child's plan for permanency is not adoption, guardianship, or return home. (~~3-30-01~~)(7-1-01)T

**14. ASFA Placement Preferences.** The following placement preferences will be used when recommending and making permanency decisions: (3-30-01)

a. Return home if safe to do so; (3-30-01)

b. Adoption or legal guardianship by a relative; (3-30-01)

c. Adoption or legal guardianship by kin; (3-30-01)

d. Adoption or legal guardianship by non-relative; (3-30-01)

e. Other planned permanent placement such as long-term foster care. (3-30-01)

**(BREAK IN CONTINUITY OF SECTIONS)**

**240. SIX MONTH REVIEWS CONDUCTED BY THE DEPARTMENT.**

Unless a judicial review occurs at the end of a six (6) month period in a Child Protective Act placement or other out of

home placement including placements under the Children's Mental Health Services Act, placements of children where the Department is the child's guardian, the Department shall conduct an individual family case review to assure compliance with all applicable state and federal laws, and to ensure the plan focuses on the goals of safety, permanency and well-being of the child. ~~(3-30-01)~~(7-1-01)T

**01. Notice Of Six Month Review.** The birth parents, adoptive parents, and foster parents of a child and any preadoptive parent or relative providing care for the child and an Indian child's tribe, if appropriate, are to be provided with notice of and an opportunity to be heard in the six (6) month review. This shall not be construed to require that any foster parent, preadoptive parent, or relative providing care for the child be made a party solely to the review on the basis of such notice and opportunity to be heard. Participants have the right to be represented by the individual of their choice. (3-30-01)

**02. Procedure In The Six Month Review.** The parties shall be given the opportunity for face-to-face discussion including attending, asking questions and making statements. (3-30-01)

**03. Members Of Six Month Review Panel.** The review team shall include a Department employee who is not in the direct line of supervision in the delivery of services to the child or parents being reviewed. The review panel may include agency staff, staff of other agencies, officers of the court, members of Indian tribes and citizens qualified by experience, professional background or training. Members of the panel shall be chosen by the regional director and receive instructions from the program manager or their designee to enable them to understand the review process and their roles as participants. (3-30-01)

**04. Issues Considered In Six Month Review.** ~~The six (6) month review panel shall:~~ Whether conducted by the court in a review hearing or a Department review panel, under Federal law and regulation, each of the following issues must be addressed: ~~(3-30-01)~~(7-1-01)T

a. Review the extent to which all parties have followed through with the family plan, their progress toward alleviating the circumstances necessitating the placement, the extent to which the goals described in the plan have been achieved, and the appropriateness of a concurrent plan; and (3-30-01)

b. Review compliance with the Indian Child Welfare Act, if appropriate; and (3-30-01)

c. Make a determination of the continuing necessity for and appropriateness of the child's placement; and (3-18-99)

d. Set a target date by which the child may safely be returned home or placed for adoption, legal guardianship or other permanent placement. (3-30-01)

**05. Recommendations And Conclusions Of Six Month Review Panel.** Following the review, written conclusions and recommendations shall be provided to all participants, subject to Department safeguards for confidentiality. The decision shall also provide appeal rights. (3-30-01)

**(BREAK IN CONTINUITY OF SECTIONS)**

**250. PERMANENCY HEARINGS.**

By the provision of Public Law 105-89, Adoption and Safe Families Act, and Idaho Code, every child in alternate care under state supervision must also have a Permanency Hearing conducted by the court or a court designee. Permanency Hearings shall be held no later than every twelve (12) months after the date of the child's removal and no later than every twelve (12) months thereafter as long as the child remains under the care and custody of the Department. A twelve (12) month Permanency Hearing shall be held by the court having jurisdiction in the case, if that is the preference of the court. If the court does not wish to conduct this hearing, the court may appoint a hearing officer. The appointed hearing officer may not be supervised or reimbursed by the Department. (3-30-01)

**01. Attendance At Permanency Hearings.** The Permanency Hearing shall include, at a minimum, the

birth parents, adoptive parent, foster parents of a child, any preadoptive parent or relative providing care for the child, and/or the child's Indian tribe, if appropriate. Parties shall be provided, by the court, with written notice of the hearing and opportunity to be heard. This shall not be construed to require that any foster parent, preadoptive parent, or relative providing care for the child be made a party to the hearing solely on the basis of such notice and opportunity to be heard. (3-30-01)

**02. Judicial Determinations.** (3-30-01)

a. The court or designee officer shall determine if the Department has made reasonable efforts to finalize a permanent plan for the child and issue an order specifying the permanent plan. (3-30-01)

b. In cases where the Department has documented, in the alternate care plan component of the family's service plan, compelling reasons for not terminating the parent and child relationship and for placing the child in long-term alternate care, the court shall review and determine if the compelling reasons exist.

~~(3-30-01)~~(7-1-01)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**400. AUTHORITY FOR ALTERNATE CARE SERVICES.**

Upon approval of the Regional Family and Children's Services Manager or designee, the Department may provide or purchase alternative care under the following conditions: ~~(3-18-99)~~(7-1-01)T

**01. Department Custody.** When the child is in the legal custody or guardianship of the Department; or (3-18-99)

**02. Voluntary Placement.** Upon agreement with the parents when circumstances interfere with their provision of proper care or they are no longer able to maintain a child with serious emotional disturbance in their home and they can benefit from social work and treatment services. A service plan and an out-of-home placement agreement must be developed between the Department and the family. The service plan will identify issues, goals, objectives, time frames, tasks and task responsibilities. The out-of-home placement agreement will include the terms for reimbursement of costs with any necessary justification for deviation from Child Support guidelines. A contract between the Department and the service provider, if applicable, must also be in effect. Voluntary out-of-home placements exceeding one hundred eighty (180) days without a judicial determination that it is contrary to the welfare of the child to be returned home, cannot be reimbursed by Title IV-E funds. (3-30-01)

**(BREAK IN CONTINUITY OF SECTIONS)**

**442. ~~HEALTH AND DENTAL CARE~~ MEDICAID FOR CHILDREN IN ALTERNATE CARE.**

Every child placed in alternate care shall receive a medical card each month.

~~(3-30-01)~~(7-1-01)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**447. MEDICAL EXAMINATION UPON ENTERING ALTERNATE CARE.**

Within thirty (30) days of entering alternate care, each child will receive a medical examination to assess the child's health status, and thereafter according to a schedule prescribed by the child's physician or other health care professional. (7-1-01)T

~~447~~ -- 450. (RESERVED).

**(BREAK IN CONTINUITY OF SECTIONS)**

**562. REGISTRY EXEMPTION FOR PARENTS OF CERTAIN ABANDONED INFANTS.**

No disposition will be made on the parent(s) and no information will be entered into the IDHW Central Registry when a parent(s) relinquishes their infant within the first thirty (30) days of life to a "Safe Haven" according to Section 39-8102, Idaho Code, Idaho Safe Haven Act. (7-1-01)T

**5623. ALL OTHER REPORTS.**

If it is determined through the risk assessment that reports are "not valid" (Verifiable, Indicated, Unable to Determine, or Invalid), the family shall also be advised. (3-30-01)

**01. Request For Statement.** Upon the individual's request, the field office shall issue written statements indicating that: (3-18-99)

a. The Department has not obtained sufficient information to warrant further assessment of or action on that specific report; and (3-18-99)

b. The Department shall fulfill its legal responsibility to investigate and take appropriate action on any further reports that elaborate on the previous allegations or relate new allegations. (3-18-99)

**02. Removal Of Identifying Information From The Department's Central Registry Of Valid Child Protection Referral Dispositions.** The Department shall remove identifying information regarding a specific individual only when that individual has successfully appealed his name being placed on the Central Registry. (3-30-01)

**5634. COURT-ORDERED CHILD PROTECTION RISK ASSESSMENT.**

When, in any divorce proceeding or upon request for modification of a divorce decree, an allegation of child abuse or child sexual abuse is made, implicating either party, the court shall order that an investigation/risk assessment be conducted by the Department of Health and Welfare. Court orders for preliminary child protective risk assessment and for any subsequent assessment the court may deem necessary shall be served on the supervisor for child protection services in the field office in which the court has geographical jurisdiction. The child protection supervisor shall immediately initiate the risk assessment and consult with the court promptly if there are any obstacles proceeding its completion. Immediately upon completing the report, the Department shall make a written report to the court. (3-30-01)

**5645. PETITION UNDER THE CHILD PROTECTIVE ACT.**

If any incidence of child abuse, neglect abandonment is substantiated through the risk assessment or during the provision of services, and cannot be resolved through informal processes or voluntary agreement that is adequate for protection of the child, the Department shall request the prosecuting attorney to file a Child Protective Act petition. (3-30-01)

**5656. COOPERATION WITH LAW ENFORCEMENT.**

The Department shall cooperate with law enforcement personnel in their handling of criminal investigations and the filing of criminal proceedings. (3-18-99)

**5667. CHILD CUSTODY INVESTIGATIONS FOR THE DISTRICT COURT.**

Where no other community resources are available and when ordered by the district courts, the Department shall, for a fee of thirty-five dollars (\$35) per hour, conduct risk assessments and provide social information to assist the court in child custody actions, to assist the court to determine the most therapeutic placement for the child. (3-30-01)

**01. Requests From Private Attorney.** If a parent's attorney requests a risk assessment and report of findings regarding the fitness of a parent, the attorney shall be advised that such service is provided on behalf of a child but not on behalf of a litigant, and that any such assessment and report would be provided to the court pursuant to a court order. (3-18-99)

**02. Conduct Of The Assessment.** In conducting the assessment, the family services worker shall explain to the family the purpose for which the information is being obtained. If the judge intends to treat the report as evidence, the family shall be informed that any information they provide will be brought out at the court hearing. If the family refuses to give information to the family services worker, the Department has no authority to require cooperation. However, the judge may issue an order directing the family to provide information to the family services worker for the purpose of making a report to the court. (3-18-99)

**03. Report To Court.** The family services worker shall provide a report only to the Magistrate judge who ordered the assessment, and shall use the Department's format for the assessment of need. The report shall describe what was observed about the home conditions and the care of the child(ren). (3-18-99)

**04. Department Clients.** If the family is or has been a client of the Department, disclosure of information shall comply with Idaho Department of Health and Welfare Rules, IDAPA 16.05.01, "Rules Governing the Disclosure and Protection of Department Records". (3-18-99)

~~5678~~. -- 639. (RESERVED).

**(BREAK IN CONTINUITY OF SECTIONS)**

**701. SERVICES TO BE PROVIDED IN ADOPTIONS.**

In addition to the core family and children's services provided in accordance with these rules, the Department shall assure provision of the following: (3-30-01)

**01. Response To Inquiries.** Written or personal inquiries from prospective adoptive families shall be answered within two (2) weeks. (3-18-99)

**02. Pre-Placement Child/Family Assessment.** An assessment of the child's family of origin history, needs as an individual and as part of a family, and completion of a life story book for each child preparing for adoptive placement. (3-18-99)

**03. Compliance With Multi-Ethnic Placement Act And Interethnic Adoption Provisions.** Selection of the most appropriate adoptive family consistent with the Multi-Ethnic Placement Act and Interethnic Adoption Provisions, if the child is not an Indian. (3-30-01)

**04. (Pre-Placement) Home Study.** An adoptive home study to ensure selection of an appropriate adoptive home. (3-18-99)

**05. Preparation For Placement.** Preparation of the child by an assigned social worker who will assist the child in addressing anticipated grief and loss due to separation from his birth parents and assisting the child with the transition into an adoptive home. (3-18-99)

**06. Technical Assistance.** Assistance in completing the legal adoption, including compliance with the Indian Child Welfare Act. (3-18-99)

**07. Adoption Assistance.** A determination of eligibility for adoption assistance shall be made for each child placed for adoption through the Department prior to the finalization of his adoption. Eligibility for adoption assistance is determined solely on the child's need. No means test shall be applied to the adoptive family's income or resources. Once eligibility is established, the Division shall negotiate a written agreement with the adoptive family. The agreement must be fully executed by all parties prior to the finalization of the adoption in order to be valid. (3-18-99)

**08. Period Of Support Supervision.** Once a child is placed with an adoptive family, a period of support and supervision by the Department of at least six (6) months shall occur prior to the finalization of the

adoption. If the child has been a foster child placed with the family for a period of at least one (1) year, the family may submit a written request to the Family and Children's Services to waive the standard support period. (3-30-01)

**09. Post Adoption Services.** Services after an adoption is final are provided within available resources. Children with negotiated adoption assistance agreements (whether from Idaho or from another state) are eligible for any services available to Idaho children. International adoptees residing in Idaho are also eligible for any services available to Idaho children pursuant to the Inter-County Adoption of 2000 (P.L.106-279). Children with adoption assistance either IV-E or state adoption assistance agreements are eligible for Medicaid in Idaho. A referral from an Interstate Compact on Adoption and Medical Assistance member state shall serve as a formal application for services in Idaho. Applications for Medicaid are made through Central Office. (~~3-18-99~~)(7-1-01)T

**702. SERVICES TO BE PROVIDED IN LEGAL GUARDIANSHIPS.**

In addition to the family services provided in accordance with these rules, the Department shall provide the following: (7-1-01)T

**01. Preparation For Placement.** Preparation of the child by an assigned social worker who will assist the child in addressing anticipated grief and loss due to separation from his birth/legal parents and assisting the child with the transition into the home of the legal guardian(s). (7-1-01)T

**02. Licensure.** Potential legal guardian(s) must apply for and receive a foster care license before any child in the guardianship of the Department can be placed in their home. (7-1-01)T

**03. Financial Assistance To Obtain Guardianship.** For potential legal guardians who are not able to afford the attorney and court costs to obtain legal guardianship of a child in the Department's guardianship, financial assistance may be available from the Department. Financial assistance may be provided regardless of the guardian's state of residence. (7-1-01)T

**04. Eligibility For Guardianship Assistance.** A determination of eligibility for guardianship assistance shall be made for each child placed in a legal guardianship through the Department prior to the finalization of the guardianship. Eligibility for guardianship assistance is determined solely on the basis of the child's needs. No means test shall be applied to the prospective legal guardian family's income or resources in a determination of eligibility. (7-1-01)T

**05. Guardianship Assistance Agreement.** The region shall negotiate a written guardianship assistance agreement with the prospective legal guardian(s). The agreement must be fully executed by all parties prior to the finalization of the guardianship in order to be valid. Benefits may include both a monthly cash payment and Medicaid benefits. The cash payment may not exceed the published foster care rate the child would receive if he or she were living in family foster care in Idaho. Idaho Medicaid benefits can only be used in Idaho. There is no reciprocity with other state's Medicaid programs. Guardianship benefits are subject to availability and are to be reviewed by the Department and the legal guardian(s) at least annually. This benefit terminates on the child's eighteenth birthday regardless of the child's academic standing, physical, or developmental delays. (7-1-01)T

**06. Revocation Of Legal Guardianship.** Any party including the Department or the child, if age fourteen (14) or older, may petition the court to have the legal guardian(s) removed. Guardianship assistance is terminated when a court revokes the guardianship. (7-1-01)T

**07. Termination Of Guardianship Assistance When Child Leaves Home Of The Legal Guardian(s).** If guardianship is revoked and the child(ren) are returned to the Department's guardianship, guardianship assistance will be terminated. If it is anticipated that another legal guardian(s) will be appointed by the court, the new guardian(s) will need to complete application for guardianship assistance before the guardianship is finalized. The guardian(s) is required to immediately report to the Department any reason which would make them ineligible to receive guardianship assistance, such as, the child leaves the home, the child marries or enters the military. (7-1-01)T

**08. Retroactive Benefits.** Legal guardians appointed on or before July 1, 2001, are not eligible for guardianship assistance. There will be no retroactive benefits paid by the Department for a child whose legal guardian(s) was appointed before July 1, 2001 or for guardians who did not negotiate a guardianship assistance

agreement prior to the finalization of the guardianship.

(7-1-01)T

7023. -- 709. (RESERVED).

**(BREAK IN CONTINUITY OF SECTIONS)**

**900. ADOPTION ASSISTANCE.**

The purpose of the adoption assistance program is to encourage the legal adoption of children with special needs who would not be able to have the security of a permanent home without support payments. Applications are made through the Division of Family and Community Services, Resource Development Unit for a determination of eligibility. Once an application for adoption assistance is submitted to the Division of Family and Community Service's, the Division shall respond with a determination of the child's eligibility within forty-five (45) days.

(3-18-99)

**01. Determination Of Need For Assistance.** The Bureau of Family and Children's Services shall determine whether a child is a child with special needs ~~or is currently being adopted by a relative of a specified degree~~. A child must be eligible for Aid to Families with Dependent Children (AFDC), Title IV-E Foster Care or Supplemental Security Income (SSI), and meet the definition of a child with special needs according to Section 473 (c) of P.L. 96-272 (The Adoption Assistance and Child Welfare Act of 1980). A child who is eligible for Supplemental Security Income (SSI) benefits, and meets the definition of a child with special needs at the time the adoption petition is filed, may also apply for these benefits regardless of the circumstances of the child's removal from his home or whether the state has responsibility for the child's placement and care.

~~(3-18-99)~~(7-1-01)T

- 02. Factors Considered.** The definition of special needs includes the following factors: (3-18-99)
- a. The child cannot or should not be returned to the home of the parents; and (3-18-99)
  - b. The child has a physical, mental, emotional or medical disability, or is at risk of developing such disability based on known information regarding the birth family and child's history, or (3-18-99)
  - c. The child's age makes it difficult to find an adoptive home; or (3-18-99)
  - d. The child is a member of a sibling group that must not be placed apart; or (3-18-99)
  - e. The child has established such close emotional ties with a foster family or relative family that replacement is likely to be as traumatic to the child as removal from a natural family; and (3-18-99)
  - f. Except in cases of foster parent or relative adoption, the child must have been listed with a state, regional or national adoption exchange. To establish eligibility for a federal non-recurring adoption reimbursement, private agencies and independent adoption attorneys shall show documentation of efforts to recruit the most suitable family for a specific child. (3-30-01)

**03. Removal From Home.** The federal adoption assistance program recognizes only two (2) methods whereby a child's removal from his home meets eligibility guidelines for Title IV-E foster care maintenance payments and subsequent IV-E adoption assistance:

(7-1-01)T

- a. Removal as a result of a voluntary out-of-home placement agreement and when Title IV-E funds are used to fund the placement; (7-1-01)T
- b. Removal as a result of a judicial determination that it would be contrary to the child's welfare for the child to remain in their home. The child must then come under DHW responsibility for placement and care or the responsibility of a public agency, including Indian Tribes, with whom DHW has a IV-E agreement at the time of the voluntary out-of-home placement. (7-1-01)T

(BREAK IN CONTINUITY OF SECTIONS)

**910. TYPES AND AMOUNTS OF ASSISTANCE.**

The needs of the child and the family, including any other children in the family, shall be considered in determining the amount and type of support to be provided. Assistance may include the following: (3-18-99)

**01. Nonrecurring Adoption Reimbursement.** Payment for certain one (1) time expenses necessary to finalize the adoption may be paid when a family adopts a special needs child. They are defined as reasonable and necessary adoption fees, court costs, attorney fees and other expenses which are directly related to the legal adoption of a child with special needs and which are not incurred in violation of state or federal law. They may include mileage and lodging involved in visiting the child before placement occurs. These expenses cannot be reimbursed if they are paid for the adoptive parents by other sources such as an employer. Documentation of expenses must be submitted. Costs are reimbursable up to two thousand dollars (\$2,000) per child and are entered on the Adoption Assistance Program Agreement. Families applying for Nonrecurring Adoption Reimbursement separate from the regular Adoption Assistance program must finalize the child's adoption before an Idaho Court in order for the contract to be valid. Children adopted through a court of foreign jurisdiction are not eligible to apply. (~~3-18-99~~)(7-1-01)T

**02. Monthly ~~Maintenance~~ Cash Payment.** Financial assistance in the form of a monthly cash payment may be established to assist the adoptive family in meeting the additional expenses of the child's special needs. The amount of the payment must be negotiated with the family by the adoption worker and based on the family's circumstances and what additional resources are needed to incorporate the child into the adoptive family. The amount shall not exceed the rates for family foster care which would be made if the child were in a family foster home in Idaho. For children who meet the definition of special needs at Subsection 900.02 in these rules, no monthly cash payment is allowable until such time as the specific disability for which the child is known to be at risk becomes evident. For children who are currently eligible for Personal Care Services (PCS), the professional foster care rate may be used in negotiating the adoption assistance amount if the prospective adoptive family meets the educational requirements of a professional foster family. Benefits shall continue until the child reaches eighteen (18) years, based upon an annual determination of continuing need. (~~3-30-01~~)(7-1-01)T

**03. Title XIX - Medicaid Coverage.** Any special needs child for whom there is in effect an adoption assistance agreement shall also be eligible for medical coverage under Medicaid. Medicaid provides secondary coverage after the family's health insurance and other resources have been exhausted. Coverage may begin while the family meets the child's yearly deductible under the family's health care policy. Coverage may include routine medical costs or may be limited to costs related to specific medical problems of the child, and may be made for children who meet the definition of special needs at Subsection 900.02 in these rules and whose family has health insurance. Medicaid shall not be available for treatment of that specific disability until such time as the specific disability for which the child is known to be at risk becomes evident and treatment is medically necessary. Medicaid benefits are available until the child reaches the age of eighteen (18), based upon an annual determination of continuing need. (~~3-30-01~~)(7-1-01)T

(BREAK IN CONTINUITY OF SECTIONS)

**923. DISRUPTION OF INTERNATIONAL ADOPTIONS.**

The Intercountry Adoption Act of 2000 (P.L. 106-279) requires that each state make an annual report of children who were adopted from other countries who enter state custody as a result of the disruption of a placement for adoption or the dissolution of an adoption. The report will include the name of the agency who handled the placement or the adoption, the plans for the child, and the reasons for the disruption or dissolution. Each region will collect this information and send it to the Bureau of Family and Children's Service Adoptions Program Specialist in January of each year. (7-1-01)T

**9234. -- 999. (RESERVED).**

**IDAPA 22 - BOARD OF MEDICINE**

**22.01.01 - RULES OF THE BOARD OF MEDICINE FOR LICENSURE TO PRACTICE MEDICINE  
AND SURGERY AND OSTEOPATHIC SURGERY**

**DOCKET NO. 22-0101-0101**

**NOTICE OF TEMPORARY AND PROPOSED RULEMAKING**

**EFFECTIVE DATE:** The temporary rule is effective September 8, 2001.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-1806 (2) Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than November 21, 2001.

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: Section 051 is changed to comply with Federal guidelines for the processing of fingerprints. Changes must be made before May 2002 to comply with federal guidelines. Fingerprints are required on each physician applicant for criminal background checks. Section 053 is added to allow foreign-trained physicians that have graduated from unapproved medical schools an avenue for licensure in Idaho. The rule allows those physicians that have obtained board certification and other demonstrated competency the opportunity to obtain licensure and fill needed physician vacancies throughout Idaho while providing for the public safety by insuring all licensees meet education and training requirements. One change is made to Section 077 to reflect the change in statute (HB 215) passed by the 1999 legislative session. Other changes are administrative changes made to comply with administrative policy in the rulemaking process.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: To comply with deadlines in amendments to governing federal law and to confer a benefit to the public by providing more physicians to fill vacancies all over Idaho and provide for the public safety in insuring licensure qualifications are met by all applicants.

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

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of time constraints of federal mandate, however, affected organizations were included in planning subcommittee.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Nancy M. Kerr, Idaho State Board of Medicine (208) 327-700.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before November 28, 2001.

DATED this 9th day of September, 2001.

Nancy M. Kerr  
Executive Director  
Idaho State Board of Medicine  
1755 Westgate Drive  
PO Box 83720, Boise, Idaho 83720-0058  
(208) 327-7000, Fax (208) 327-7005

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 22-0101-0101**

**002. WRITTEN INTERPRETATIONS.**

Written interpretations of these rules in the form of explanatory comments accompanying the notice of proposed rule making that originally proposed the rules and review of comments submitted in the rulemaking process in the adoption of these rules are available for review and copying at cost from the Board of Medicine, 1755 Westgate Drive, Suite 140, Box 83720 Boise, Idaho 83720-0058. (9-8-01)T

**003. ADMINISTRATIVE APPEAL.**

All contested cases shall be governed by the provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedures of the Attorney General" and IDAPA 22.01.07, "Rules of Practice and Procedure of the Board of Medicine". (9-8-01)T

**004. PUBLIC RECORD ACT COMPLIANCE.**

These rules have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records. (9-8-01)T

**005. INCORPORATION BY REFERENCE.**

There are no documents incorporated by reference into this rule. (9-8-01)T

**006. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.**

The central office of the Board of Medicine will be in Boise, Idaho. The Board's mailing address, unless otherwise indicated, will be Idaho State Board of Medicine, Statehouse Mail, Boise, Idaho 83720. The Board's street address is 1755 Westgate Drive, Suite 140, Boise, Idaho 83704. The telephone number of the Board is (208) 327-7000. The Board's facsimile (FAX) number is (208) 377-7005. The Board's office hours for filing documents are 8 a.m. to 5 p.m. MST. (9-8-01)T

**007. FILING OF DOCUMENTS - NUMBER OF COPIES.**

All documents in rulemaking or contested case proceedings must be filed with the office of the Board. The original and ten (10) copies of all documents must be filed with the office of the Board. (9-8-01)T

**0028. -- 009. (RESERVED).**

**(BREAK IN CONTINUITY OF SECTIONS)**

**051. LICENSURE BY WRITTEN EXAMINATION.**

**01. Application.** Each applicant must have graduated from an acceptable school of medicine and completed one (1) year of postgraduate training approved by the Liaison Committee on Graduate Medical Education, the American Osteopathic Association or the Board, and shall submit completed written application to the Board on forms prescribed by the Board seventy-five (75) days prior to the written examination date, together with the application and examination fees and shall submit full set of the applicant's fingerprints on forms supplied by the board which shall be forwarded to the Idaho Department of Law Enforcement to the FBI Identification Division for the purpose of a fingerprint-based criminal history check of the Idaho central criminal database and the federal bureau of investigation criminal history database. The application form shall be verified and shall require the following:

(7-1-93)(9-8-01)T

a. The education background of the applicant including his college education, medical school education and postgraduate training; (7-1-93)

b. A certificate of graduation from an acceptable school of medicine, and evidence of satisfactory

- completion of postgraduate training; (7-1-93)
- c. The disclosure of any criminal charges, convictions or guilty pleas against the applicant other than minor traffic offenses; (7-1-93)
- d. The current mental and physical condition of the applicant, together with disclosure of any previous physical or mental illness which impacts the applicant's ability to practice medicine; (3-30-01)
- e. The disclosure of any past or pending medical malpractice actions against the applicant, and the settlements, if any, of such claims; (7-1-93)
- f. The disclosure of any disciplinary action by any state board of medicine, medical society, professional society, hospital or institution staff; (7-1-93)
- g. The disclosure of the refusal to issue a license to practice medicine by any other state; (7-1-93)
- h. References; (7-1-93)
- i. An unmounted photograph of the applicant, three inches by three inches (3" x 3"), taken not more than one (1) year prior to the date of the application; (7-1-93)
- j. A certified copy of a full set of the applicant's fingerprints on forms supplied by the board which shall be forwarded to the Idaho Department of Law Enforcement and to the FBI Identification Division for the purpose of a fingerprint-based criminal history record check of the Idaho central criminal database and the Federal Bureau of Investigation criminal history database; ~~(7-1-93)~~(9-8-01)T
- k. Such other information or examinations as the Board deems necessary to identify and evaluate the applicant's credentials and competency. (7-1-93)

**02. Examination.** Each applicant must pass an examination conducted by or acceptable to the Board which shall thoroughly test the applicant's fitness to practice medicine. If an applicant fails to pass the examination on two (2) separate occasions, the applicant shall not be eligible to take the examination for at least one (1) year, and before taking the examination again, the applicant must make a showing to the Board that he has successfully engaged in a course of study for the purpose of improving his ability to engage in the practice of medicine. Applicants who fail two (2) separate examinations in another state, territory, or district of the United States or Canada, must make the same showing of successful completion of a course of study prior to examination for licensure. (7-1-93)

**03. Interview.** Each applicant may be personally interviewed by the Board or a designated committee of the Board. The interview shall include a review of the applicant's qualifications and professional credentials. (3-30-01)

**04. Applicants.** All applicants must appear to be examined or receive their license within one (1) year unless extended by the Board after filing an application. (7-1-93)

**052. LICENSURE BY WRITTEN EXAMINATION FOR GRADUATES OF MEDICAL SCHOOLS LOCATED OUTSIDE OF THE UNITED STATES AND CANADA.**

**01. Foreign Graduate.** In addition to meeting the requirements of Section 051, graduates of medical schools located outside of the United States and Canada must submit to the Board: (3-19-99)

a. An original certificate from the Educational Commission for Foreign Medical School Graduates or must submit documentation that the applicant has passed the examination either administered or recognized by the Educational Commission for Foreign Medical School Graduates; and IDAPA 22.01.01. (7-1-93)

b. Evidence directly from the foreign medical school which establishes to the satisfaction of the Board that the foreign medical school meets the standards for medical educational facilities set forth in Subsection 052.02; and (3-19-99)

c. An Affidavit from the foreign medical school that to its knowledge no state of the United States has refused to license its graduates on the grounds that the school fails to meet reasonable standards for medical education facilities. (7-1-93)

d. A complete transcript from the medical school showing the courses taken and grades received including an English translation of the documents provided. ~~(7-1-93)~~(9-8-01)T

**02. Requirements.** A foreign medical school must meet and comply with the following requirements: (7-1-93)

a. The degree issued must be comparable to the degrees issued by medical schools located within the United States or Canada. (7-1-93)

b. If the foreign medical school issued its first M.D. degrees after 1975, the school must provide a site visit or documented evidence of equivalent evaluation efforts acceptable to the Board is required. (3-30-01)

c. If the foreign medical school issued valid degrees prior to 1975, the Board, in its discretion may require a site visit. (3-30-01)

d. A site visit of the school, when required, must be financed by the school. The visiting team shall consist of at least one (1) member of the Board; one (1) consultant, a clinical medical educator acceptable to the Board; one (1) consultant, a basic science educator acceptable to the Board; such administrative support personnel as deemed necessary. The school will be required to pay consultant fees and expenses. (7-1-93)

e. The Board may waive the site visit requirement if: (7-1-93)

i. Information assembled by a similarly or comparably constituted site visit team is available from another state licensing board; or (7-1-93)

ii. In the case of review for renewal of approval. (7-1-93)

f. All schools approved by the Board will be subject to review of approval as deemed necessary by the Board, taking into consideration need and feasibility. (7-1-93)

g. The Board will review all available information in considering approval, including investigative reports by other states, national and international agencies, and may consider the comparative performance of graduates with those of other schools on standard examination. (7-1-93)

**03. Postgraduate Training.** The foreign medical school graduate must submit documentation that the applicant has satisfactorily completed three (3) years of postgraduate training in a program which is located in the United States or Canada, which is approved for such training by the Liaison Committee on Graduate Medical Education and which is conducted under the direction of an acceptable school of medicine; provided however, applicants who do not have an ECFMG certificate must also submit documentation that their three (3) years of postgraduate training included at least one (1) academic year of supervised clinical training conducted under the direction of an acceptable school of medicine. (7-1-93)

**04. ECFMG.** The certificate from the Educational Commission for Foreign Medical School Graduates is not required if the applicant holds a license to practice medicine which was issued prior to 1958 in one (1) of the states of the United States and which was obtained by written examination. (7-1-93)

**05. English Language.** The foreign medical student applicant must be able to speak, write and read the English language. (7-1-93)

**053. GRADUATES OF UNAPPROVED MEDICAL SCHOOLS LOCATED OUTSIDE THE UNITED STATES OR CANADA.**

Graduates of schools located outside the United States or Canada that do not meet the requirements of Subsections

052.01 and 052.02 shall meet three (3) of the following requirements. (9-8-01)T

**01. Hold Valid Certificate.** Hold a valid certificate issued by ECFMG. (9-8-01)T

**02. Three Years Of Completed Post Graduate Training.** Completed three (3) years of progressive post graduate training in an American Council on Graduate Medical Education (ACGME) or American Osteopathic Association (AOA) approved program. (9-8-01)T

**03. Hold Board Certification.** Hold board certification by a speciality board approved by the American Board of Medical Specialities or the AOA. (9-8-01)T

**04. Have Five Years Unrestricted Practice.** Provide evidence of five (5) years of unrestricted practice as a licensee of any United States or Canadian jurisdiction. (9-8-01)T

**0534. -- 075. (RESERVED).**

**(BREAK IN CONTINUITY OF SECTIONS)**

**077. TEMPORARY LICENSE.**

**01. Application For Temporary Licensure.** Any applicant eligible to be licensed without written examination pursuant to Section 076, may apply for a temporary license to practice medicine; however, any applicant who has failed to receive a passing grade in any written examination before a state, territorial or district licensing agency or before the National Board of Medical Examiners or the National Board of Examiners for Osteopathic Physicians and Surgeons is not eligible to apply for or to receive a temporary license. (3-19-99)

**02. File Completed Application.** All applicants for a temporary license shall file a completed written application in accordance with Section 076 and shall file with the Board an application for a temporary license fee and regular license fee. The temporary license application shall require a showing by the applicant of the necessity and need for such a license. (3-19-99)

**03. Board Member.** The chairman or designated member of the Board shall review the application for a temporary license and the application required by Section 076 and ~~shall~~ may interview the applicant. If he is of the opinion that the applicant possesses qualifications and credentials for a permanent license without written examination, and the applicant for the temporary license has made a showing of circumstances requiring immediate action that cannot be delayed, he may approve issuance of a temporary license. The temporary license shall bear the word "temporary" and will show the date of issuance and the date of expiration. The temporary license expiration date may be extended by the Board upon a showing of good cause. (~~3-19-99~~)(9-8-01)T

**IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.08.01 - RULES OF THE STATE BOARD OF MORTICIANS**  
**DOCKET NO. 24-0801-0101**  
**NOTICE OF RULEMAKING - PENDING FEE RULE**

**EFFECTIVE DATE:** This pending rule has been adopted by the agency and is now pending review by the 2002 Idaho State Legislature for final approval. The pending rule becomes final and effective after the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. After the pending rule is approved, rejected, 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 54-1106 and 54-1107, 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 original text of the proposed rule was published in the August 1, 2001, Idaho Administrative Bulletin, Volume 01-8, pages 86 through 89.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. Increase the Funeral Director and Mortician fees to \$85; increase the funeral establishment fee to \$125; increase the application fee to \$100; increase the Mortician Resident Trainee and Certificate of Authority fees to \$50; and increase the reinstatement fee to \$20. This fee or charge is being imposed pursuant to Section 54-1107, Idaho Code.

Because of the fee being imposed or increased through this rulemaking, this pending rule will not be adopted as final nor will it become effective until it has been approved, amended, or modified by concurrent resolution of the legislature.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Budd A. Hetrick, Jr. (208) 334-3233.

DATED this 12th day of September, 2001.

Budd A. Hetrick, Jr.  
Owyhee Plaza  
1109 Main Street, Suite 220  
Boise, ID 83702  
(208) 334-3233 / (208) 334-3945 (FAX)

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**IDAPA 24, TITLE 08, Chapter 01**

**RULES OF THE STATE BOARD OF MORTICIANS**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 01-8, August 1, 2001, pages 86 through 89.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2002 Idaho State Legislature as a final rule.**

**IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.11.01 - RULES OF THE STATE BOARD OF PODIATRY**  
**DOCKET NO. 24-1101-0101**  
**NOTICE OF RULEMAKING**  
**PENDING RULE AND AMENDMENT TO TEMPORARY RULE**

**EFFECTIVE DATE:** The effective date of the amendment to the temporary rule is July 1, 2001. This pending rule has been adopted by the agency and is now pending review by the 2002 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 6-5224 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 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section 54-605, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the existing temporary 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.

Rule 500 is being amended to comply with 67-5229, Idaho Code, regarding incorporation by reference.

Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Idaho State Board of Podiatry amended the temporary rule with the same revisions which have been made to the proposed rule.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rule was published in the August 1, 2001 Idaho Administrative Bulletin, Volume 01-8, pages 90 through 94.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Budd A. Hetrick, Jr., (208) 334-3233.

DATED this 12th day of September, 2001.

Budd A. Hetrick, Jr.  
Owyhee Plaza  
1109 Main Street, Suite 220  
Boise, Idaho 83702  
(208) 334-3233  
(208) 334-3945 (FAX)

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**IDAPA 24, TITLE 11, Chapter 01**

**RULES OF THE STATE BOARD OF PODIATRY**

**There are substantive changes from the proposed rule text.**

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 00-8, August 1, 2001, pages 90 through 94.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2002 Idaho State Legislature as a final rule.

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**THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 24-1101-0101**

**500. STANDARDS OF THE ETHICAL PRACTICE OF PODIATRY (Rule 500).**

The standards of the Ethical Practice of Podiatry are prescribed in Section 54-609, Idaho Code, in the American Podiatric Medical Association's Code of Ethics as ~~may be amended from time to time~~ referenced in Subsection 004 of these rules and are hereby adopted and shall apply to all practitioners of podiatry. ~~(7-1-01)T~~(7-1-01)T

**IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.14.01 - RULES OF THE STATE BOARD OF SOCIAL WORK EXAMINERS**  
**DOCKET NO. 24-1401-0101**  
**NOTICE OF RULEMAKING - PENDING FEE RULE**

**EFFECTIVE DATE:** This pending rule has been adopted by the agency and is now pending review by the 2002 Idaho State Legislature for final adoption. The pending rule becomes final and effective after the rule is approval, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. After the pending rule is approved, rejected, 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 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending. This action is authorized pursuant to Sections 54-3204, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the existing temporary 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 original text of the proposed rule was published in the August 1, 2001 Idaho Administrative Bulletin, Volume 01-8, pages 95 through 97.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-3209, Idaho Code. Increase application and original license fee for certified social worker, private and Independent Practice, and social worker to \$50; increase temporary permit fee to \$35; increase endorsement and license fee for certified social worker, social worker and private and independent practice to \$55; increase renewal fee for certified social worker, and social worker to \$50, and certified social worker with private and independent practice to \$60.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Budd A. Hetrick, Jr., at (208) 334-3233.

DATED this 12th day of September, 2001.

Budd A. Hetrick, Jr.  
Owyhee Plaza  
1109 Main Street, Suite 220  
Boise, Idaho 83702  
(208) 334-3233 / (208) 334-3945 (FAX)

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**IDAPA 24, TITLE 14, Chapter 01**

**RULES OF THE STATE BOARD OF SOCIAL WORK EXAMINERS**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 01-8, August 1, 2001, pages 95 through 97.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2002 Idaho State Legislature as a final rule.**

**IDAPA 48 - DEPARTMENT OF COMMERCE**

**48.01.03 - RULES OF THE IDAHO REGIONAL TRAVEL AND CONVENTION GRANT PROGRAM**

**DOCKET NO. 48-0103-0101**

**NOTICE OF TEMPORARY AND PROPOSED RULEMAKING**

**EFFECTIVE DATE:** The temporary rule is effective October 3, 2001.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 67-4715, 67-4717, and 67-4718, 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 November 21, 2001.

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:

To update, reformat sections and renumber rules to bring in line with existing rulemaking standards.  
To bring guidelines in line with updated legislation re: per diem and use of registered vendors.  
To change the existing print and credit statement requirements and replace with a standard, Idaho Travel Council approved logo.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted with Idaho Department of Commerce staff and designated advertising agency, the Idaho Travel Council, and industry participants of the ITC grant program at the Idaho Travel Council meeting July 18 and 19, Boise, Idaho. Discussion was generated during and following this meeting to revise and improve the existing rules in regards to the required credit statement. Industry meetings were held as follows: October 10 - Moscow; October 11 - Sandpoint; October 15 - Boise; October 16 - Challis; October 17 - Pocatello; October 18 - Twin Falls.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Idaho Department of Commerce, Carl Wilgus (208) 334-2470.

Anyone may submit written comments regarding the proposed rule. All written comments must be directed to the undersigned and must be delivered on or before November 28, 2001.

DATED this 13th day of September, 2001.

Carl Wilgus  
Administrator, Tourism Development  
Department of Commerce  
700 W. State St.  
PO Box 83720  
Boise ID 83720-0093  
(208) 334-2470; FAX (208) 334-2631

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 48-0103-0101**

**000. LEGAL AUTHORITY.**

~~The First Regular Session of the 46th Idaho Legislature enacted Chapter 216, Laws of 1981, the Idaho Travel and Convention Industry Bill~~ These rules have been adopted pursuant to Sections 67-4715, 67-4717 and 67-4718, Idaho Code, which impose a two percent (2%) tax on the sale of hotel/motel and private campground accommodations and created the Idaho Travel and Convention Industry Committee, herein referred to as the Idaho Travel Council (ITC). The revenues generated by this new tax are to be invested one-half (1/2) by the state and one-half (1/2) by the local regions within Idaho in well-planned promotional programs. The Idaho Travel Council, through the Idaho Department of Commerce (IDC), has been given the responsibility of administering this program which includes the local regional grant program. (7-1-98)(10-3-01)T

**001. TITLE AND SCOPE.**

**01. Title.** These rules shall be cited as IDAPA 48.01.03 "Rules of the Idaho Regional Travel and Convention Grant Program" (ITC Grant Program). (10-3-01)T

**02. Scope.** The primary objective ~~of the Idaho Regional Travel and Convention Grant Program~~ is the creation and implementation of plans designed to stimulate and expand the travel and convention industry within the state's seven (7) planning regions. (7-1-98)(10-3-01)T

~~002.--099. (RESERVED).~~

**002. WRITTEN INTERPRETATIONS.**

In accordance with Sections 67-4715, 67-4717 and 67-4718, Idaho Code, this agency has written statements which pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. These documents are available for public inspection and copying at cost at the Department of Commerce, 700 West State Street -- P.O. Box 83720, Boise, Idaho, 83720-0093. (10-3-01)T

**003. ADMINISTRATIVE APPEALS.**

This chapter does not provide for appeal of the administrative requirements for agencies. (10-3-01)T

**004. INCORPORATION BY REFERENCE.**

There are no documents that have been incorporated by reference into this rule. (10-3-01)T

**005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.**

Central office for the Idaho Travel Council Grant Program is located at the Idaho Department of Commerce. Office hours are between 8 a.m. and 5 p.m. Appropriate ITC grant program documents may be filed, or mailed, to the following address:

Idaho Travel Council Grant Program  
Idaho Department of Commerce  
700 West State Street  
PO Box 83720  
Boise ID 83720-0093

(10-3-01)T

**006. PUBLIC RECORDS ACT COMPLIANCE.**

Information regarding Idaho Travel Council applications or awarded grants is considered to be public information and will be released upon request. (10-3-01)T

**007. ELIGIBLE APPLICANTS.**

**01. Intent.** The intent of the ITC's Regional Grant Program is to distribute grant funds to pre-established, permanent non-profit, incorporated organizations with viable programs. Proof of non-profit status is

required with the submission of the application. The Department of Commerce and the Idaho Travel Council will review grants closely to determine the applicant's organizational status and viability. Applicants will be evaluated to determine their ownership or affiliation with a profit making organization in providing travel information. An affiliation with a profit making organization could imply a conflict of interest. Such conflict will render the application ineligible. (2-22-93)

**02. Focus.** The ITC's major focus in any determination of eligibility is whether or not the non-profit organization has "as its primary purpose" the promotion of travel and conventions within the region. (2-22-93)

**03. Non-Profit Submittal.** Each grant application must include: (7-1-98)

a. State of Idaho Certificate of Incorporation and Articles of Incorporation from the Secretary of State or a letter of determination from the Internal Revenue Service. (7-1-98)

b. Notice of Employer Identification number assigned by the IRS. (7-1-98)

**~~102.~~ ELIGIBLE PROJECTS.**

**01. Eligible Projects.** Eligible projects under the Regional Travel and Convention Grant Program shall be consistent with the legislative declaration of policy in Title 67, Chapter 47, Idaho Code. Programs that are eligible for consideration must fall under the basic definition of travel and convention promotion. (2-22-93)

**02. Application Submittal.** Applicants must submit a complete application one (1) original and fourteen (14) copies postmarked no later than forty-five (45) days prior to the grant awards. If the application is not complete, the plan will not be considered for funding. (2-22-93)

**~~102.~~ 14009. (RESERVED).**

**~~15010.~~ DEFINITIONS, REGIONAL/LOCAL/SPECIAL INTEREST PROMOTION.**

The applicant must establish that the plan will attract more visitors to the region and keep them in the region longer. All plans must identify Idaho and market various attractions and events throughout the region. Regional applications must be a true region-wide promotion, ~~i.e. #~~ and must promote the planning region as defined in the legislation. The following items are eligible projects: (~~2-22-93~~)(10-3-01)T

**01. Advertising.** Ranked Primary. Priority will be given to advertising that is image-driven and ~~not~~ targets specific attractions or events within the region and ties to the state advertising plan. Markets, concepts, attractions and events will be defined in the application. If developed as a co-op, pre-approval is required by the Department of Commerce. Applicant must state in the application: (~~7-1-98~~)(10-3-01)T

a. Objective and placement of advertising. (2-22-93)

b. Geographic target audience. (2-22-93)

c. Demographic target audience. (2-22-93)

d. Fulfillment plans. (2-22-93)

**02. Hospitality.** Ranked Primary. Hospitality training will be an allowable item under the grant program. A detailed plan for the training must be included in the application. (2-22-93)

**03. Convention Promotion.** Ranked Primary. Trade shows (to be approved prior to the application process) and convention advertising. Concept and placement must be submitted with application. (2-22-93)

**04. Site Visits/Familiarization Tours (FAMS).** Ranked Primary. Tour Operators, Travel Writers, Convention Planners, Winters Sports Clubs and Airline Sales People are groups that can be invited for site visits and FAMS. Grant funds can be used for in-state transportation, fuel expenses, rental vans, motorcoaches, invitations, baggage tags, information folders and miscellaneous snacks, such as coffee, soda pop, and candy bars. Airfare for

FAM participants, up to fifty percent (50%) of the total cost, and lodging at fifty percent (50%) of the state rate will be eligible with prior ITC staff approval. Grant funds cannot be used to pay for alcoholic beverages, and attractions. Familiarization tours will be allowed ~~twenty dollars (\$20) per day, per participant per diem~~ for meals in accordance with state guidelines. Partial reimbursement, per state guidelines, will be made if participant is not being hosted on the FAM tour a complete day. FAMS must be coordinated and approved in writing by the Department of Commerce. ~~(7-1-98)~~(10-3-01)T

**05. Fulfillment.** Ranked Primary. Includes expenses directly related to implementing ITC funded plan. Eligible costs are for shipping, stuffing, sorting, envelopes, postage, eligible website costs per ITC guidelines, long distance phone calls and watts line. (Only one (1) 1-800 line per Region, and it must be centrally located and made available for use within the Region for travel and convention promotion). A distribution plan must be outlined in the application and expenses must be properly documented before reimbursement will be made. ~~(7-1-98)~~(10-3-01)T

**06. Travel And Trade Shows.** Ranked Primary. Specific shows and the number of attendees per show shall be approved prior to the application process. The applicant must identify in the application whether or not a portable display booth is available and what literature will be distributed at the show. (2-22-93)

**07. Slide Shows/Videos.** Ranked Tertiary. Applicant must state in the application the purpose of the slide show/video, how it will be used to promote the area, and how the slide show/video ties in with the applicant's overall marketing. (2-22-93)

**08. Marketing Research.** Ranked Primary. To allow marketing research in conjunction with the statewide marketing and research efforts. (2-22-93)

**09. Capital Outlay.** Ranked Secondary. Equipment with a useful life of more than one (1) year, costing one hundred fifty dollars (\$150) or more per unit. No more than one (1) piece of any like equipment per Region. (7-1-98)

a. Subject to the obligations and conditions set forth in this section, title to equipment acquired under a grant will vest upon acquisition with the grantee. (2-22-93)

b. Useful Life. The useful life of all equipment acquired through the travel grant program is five (5) years. (2-22-93)

c. Use. (2-22-93)

i. Equipment shall be used by the grantee in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by the ITC. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by the ITC. (2-22-93)

ii. The grantee shall also make equipment available for use on other projects or programs currently or previously supported by the ITC, providing such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use shall be given to other programs or projects supported by the ITC. (2-22-93)

iii. The grantee may not use equipment acquired with grant funds to provide services for a fee. (2-22-93)

iv. When acquiring replacement equipment, the grantee may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property; or, the proceeds will be reinvested into the grantee's current grant program, subject to the approval of the ITC. Sale proceeds are not cash match. (2-22-93)

d. Management Requirements. Capital outlay purchased with grant funds must be accounted for on the property record supplied by the ITC. When the property is initially purchased, the grantee will provide all the required information on the property record. Send the original to the Department of Commerce and keep a copy for

your files. The property is tracked through its useful life. Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part with grant funds, until disposition takes place will, as a minimum, meet the following requirements: (2-22-93)

i. Property records maintained must include a description of the property; a serial number or other identification number; the acquisition date and cost of the property; the location, use and condition of the property; and any ultimate disposition information including the date of disposal and sale price of the property. (2-22-93)

ii. The grantee will conduct an annual physical inventory of the property and the results will be reported to the ITC for reconciliation with the property records. This report will accompany the final narrative progress report, and must be received before final ITC reimbursement, to the grantee, is made. The ITC will conduct a physical inventory of the property at least once every two (2) years. (2-22-93)

iii. A control system must be developed to ensure adequate safeguards to prevent loss, damage or theft of the property. (2-22-93)

iv. Adequate maintenance procedures must be developed to keep the property in good condition. (2-22-93)

e. Disposition. Disposition of equipment purchased with ITC funds will be made as follows: (7-1-98)

i. Items of equipment which have exceeded their useful life may be retained, sold or otherwise disposed of. It is recommended the sale proceeds be used to acquire like equipment or enhance the grantee's current grant program. Sale proceeds are not cash match. (2-22-93)

ii. Items of equipment which have not exceeded their useful life may be sold with written authorization from the ITC. The grantee will be required to use the proceeds to purchase like equipment or to enhance the current grant program. (2-22-93)

f. Procurement. When procuring equipment under the travel grant program, the grantee will follow the same policies and procedures for purchases over two thousand five hundred dollars (\$2,500) as outlined in the Bid Process section of the administrative rules. (3-19-99)

below: g. Purchasable Equipment. A list of purchasable equipment under the travel grant program is listed (2-22-93)

i. Travel Show Booth (per ITC requirements). (2-22-93)

ii. Video Equipment: Player/Recorder, Television, Monitor, Camera. (2-22-93)

iii. Movie Projector. (2-22-93)

iv. Slide Projector. (2-22-93)

v. Computer Hardware per ITC guidelines. (10-3-01)T

vi. Equipment not listed above may be fundable at the discretion of the ITC. (2-22-93)

h. Rental Costs. Grantees are encouraged to complete projects in the most cost effective manner. If the purchase of equipment is not feasible due to a low use factor, the grantee will be allowed to enter into rental agreements to meet their equipment needs. Rental costs exceeding two thousand five hundred dollars (\$2,500) will not be exempt from the travel grant program's bid process. (3-19-99)

i. Application. When applying for grant funds to acquire equipment, the applicant must stipulate need for equipment, its location, intended use, and contact person. (2-22-93)

**10. Brochure.** Ranked Primary. Includes expenses for brochure photography, design, and printing.

Applicant shall state the purpose of the brochure, indicate if it is a reprint or new design, provide an estimated amount to be printed, and give a brief description of its layout and design. Additionally, applicant shall indicate its target audience, distribution plan, and include samples of the brochure, if available. For printing requirements, see Subsection 204.08. (2-22-93)

**11. Other Items.** Any other items not included above may be eligible as pre-approved by the Department of Commerce. (2-22-93)

~~15011. -- 199.~~ (RESERVED).

**(BREAK IN CONTINUITY OF SECTIONS)**

**204. PLAN REQUIREMENTS.**

Applicants must follow these requirements: (2-22-93)

**01. Goals/Objectives.** The needs of the plan must be consistent with the ITC Strategic Objectives. (2-22-93)

**02. Adequate Management.** The applicant must show his/her ability to properly operate and maintain the management and accounting system for the plan. (7-1-98)

**03. Previous Grant Versus New Application.** The ITC encourages successful applicants to complete all grants in a timely fashion. When considering applicants for funding, the ITC will scrutinize the applicant's historic grant record in terms of timeliness and effectiveness of implementation. (2-22-93)

**04. Application Completeness.** The applicant must submit applications to the Department of Commerce on the appropriate forms which will be provided by the department. The application must include a complete plan, grant summary sheet signed by the grantee, a detailed scope of work and a budget which includes sufficient funds for sales tax and an audit. (7-1-98)

**05. Application Amendments/Withdraws.** Amendments to either the scope of work or the budget on grant applications will be allowed only if written changes are submitted (one (1) original and fourteen (14) copies) to the Department of Commerce ten (10) working days prior to the grant awards. Any other changes must occur on the floor during awards by the Council and can only be amended by a member of the Council. Applicants wishing to withdraw applications must provide written notice to the Department of Commerce ten (10) working days prior to grant awards. (2-22-93)

**06. Plan Duration.** Applicants are encouraged to limit the duration of their plan to fourteen (14) months or less. (2-22-93)

**07. Local/Regional Support.** Applicants may show local/regional support of the plan by submitting up to three (3) letters of support. One (1) letter summarizing local match must be submitted with the application. (2-22-93)

**08. Credit Statement And Printing Identification.** All plans funded by the Idaho Regional Travel and Convention Grant Program shall credit said program. (2-22-93)

a. The following A logo, as determined and provided by the ITC, with the following guidelines, will be placed on all ITC funded brochures, in addition to a printing identification number assigned by the Department of Commerce: Special permission to adjust the size of the approved ITC logo, except where specified in these rules, must be granted by the state. (2-22-93)(10-3-01)T

i. The approved ITC logo will only be used in black on black and white brochures, and one (1) or two (2) color publications. (10-3-01)T

- ii. Four (4) color publications will use the color approved ITC logo. (10-3-01)T
- ~~ib.~~ Credit Statement: "This publication made possible by an Idaho Travel Council Grant" or "Paid, Idaho Travel Council". Eight and one-half by eleven inch (8 1/2" x 11") or larger brochures will incorporate the use of a one-half inch (1/2") logo; eight by ten inch (8" x 10") or smaller brochures, will incorporate the use of a one-fourth inch (1/4") logo. (~~2-22-93~~)(10-3-01)T
- ~~ic.~~ Printing Identification: "Printed in the USA for ITC/IDC (printing number)". ITC grant year, assigned ITC grant number, printed quantity. (~~2-22-93~~)(10-3-01)T
- ~~id.~~ State 800 Telemarketing Number: "For additional information on Idaho, call 1-800-VISIT-ID." (2-22-93)
- ~~ie.~~ The word "IDAHO" shall appear prominently on the front of the brochure. The ITC approved logo will appear on either the front cover, the inside front cover, or the back cover of the brochure. (~~2-22-93~~)(10-3-01)T
- ~~if.~~ Other printed materials, ~~slide shows/videos, films, billboards, displays,~~ web sites, and print advertising shall include the ~~credit statement: "Paid, Idaho Travel Council," and the word "IDAHO" shall appear prominently on the product~~ approved ITC logo. Size of logo to be proportional to the size of website or publication. See [www.idoc.state.id.us](http://www.idoc.state.id.us) for current downloadable graphic elements. (~~7-1-98~~)(10-3-01)T
- i. Slide shows, videos, films, TV productions or commercials will include the approved ITC logo. Size to be proportional to the size of the grantee approved content. (10-3-01)T
- ii. Radio advertisements will include the following ITC acknowledgement: "Paid Idaho Travel Council". (10-3-01)T
- iii. Billboards will include the approved ITC logo. Size to be proportional to the size of the display. (10-3-01)T
- iv. Trade show booths will display the approved ITC logo in a size and location easily viewable by the public. (10-3-01)T
- ~~eg.~~ Travel shows and Fams funded by the Idaho Regional Travel and Convention Grant Program shall will credit that program by displaying a placard stating that the activity is being funded by an Idaho Travel Council Grant with the approved ITC logo in materials appropriate to the event. (~~2-22-93~~)(10-3-01)T
- ~~eh.~~ Failure to comply with crediting the ITC for project funding could jeopardize payment for that project and future plan funding. (2-22-93)
- 09. Consultants.** Indirect personnel costs are inherently eligible when applying for a specific project to be subcontracted to a consultant. The following regulations apply to hiring a consultant: (7-1-98)
- a. The contract between the consultant and the grantee must be approved by the Department of Commerce and shall include language stating the contractor has sufficient Workmen's Compensation or liability insurance. Payment will not be reimbursed until the Department of Commerce has approved the contract. (2-22-93)
- b. Consultant's billing must be itemized. Lump sum billings will not be eligible for payment. (2-22-93)
- c. The Council will not fund retainers or other regular ongoing fees for consultant services or pay a consultant to administer a grant. (2-22-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**209. BID PROCESS.**

**01. Bids.** Regional Travel and Convention Program grantees must utilize a bid process for purchases or services over two thousand five hundred dollars (\$2,500). (3-19-99)

**02. Documentation.** Prior to reimbursement for each cost, the appropriate information shall be submitted to the Department of Commerce which documents the following: (2-22-93)

a. Item or service to be purchased. (7-1-98)

b. Informal bids are required for projects between one thousand five hundred dollars (\$1,500) and two thousand five hundred dollars (\$2,500). This consists of contacting three (3) ~~registered~~ vendors. Formal bids are required for projects greater than two thousand five hundred dollars (\$2,500). This requires three (3) written bids from ~~registered~~ vendors. ~~(3-19-99)~~(10-3-01)T

c. List vendors contacted and their response (list those contacted whether or not a response was received). (7-1-98)

d. Justify why the successful vendor was selected. (2-22-93)

e. Annual renewal of the subcontract can be made without rebidding, upon execution of a new contract between the grantee and the subcontractor and approval by the Department of Commerce. This can be done only after the initial three (3) bids have been processed. Subcontract renewal is authorized for up to three (3) years beyond the initial contract year. (7-1-98)

f. If a vendor is going to donate part of his/her charges as match, he/she shall have been the lowest bidder. (2-22-93)

**IDAPA 50 - COMMISSION OF PARDONS AND PAROLE**  
**50.01.01 - RULES OF THE COMMISSION OF PARDONS AND PAROLE**  
**DOCKET NO. 50-0101-0101**  
**NOTICE OF TEMPORARY AND PROPOSED RULEMAKING**

**EFFECTIVE DATE:** The effective date of the temporary rule is August 21, 2001.

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, and Section 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule and proposed rulemaking procedures have been initiated. The proposed action is authorized pursuant to Section 20-223, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Pursuant to Section 67-5222(2), Idaho Code, public hearings will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than November 21, 2001.

Any hearing site will be accessible to the physically handicapped. Interpreters for persons with hearing impairments and Braille or taped information for persons with visual impairments can be provided upon five days notice. For arrangements, contact the undersigned at (208) 334-2520.

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

Agency rules 50.01.01.000 through 006 have been expanded to provide additional information and clarification.

Agency rules 50.01.01.010.02. and 010.03 through 010.39. have been revised to provide new definitions of terms and renumbering.

Agency rule 50.01.01.100.03 has been revised to allow for cancellation of quarterly business meetings.

Agency rule 50.01.01.300.01. has been revised to broaden the victim program.

Agency rules 50.01.01.350.01.a., 350.01.b., 350.01.e. and 350.03.a. have been revised to accommodate an electronic parole plan.

Agency rules 50.01.01.400.6.e.i, 400.6.e.g., and 400.09.a. have been revised to add to the parole revocation process.

Agency rules 50.01.01.450.01.k. and 450.05.a. have been revised to clarify the commutation process and delete death row file maintenance.

Agency rule 50.01.01.500.01.l. has been revised to clarify the Self Initiated Progress Report process.

Agency rule 50.01.01.550.02.c. has been revised to add to the pardon application process.

**TEMPORARY RULE JUSTIFICATION:** A temporary rule has been adopted in accordance with Section 67-5226, Idaho Code, and is necessary to comply with the law Section 20-223, Idaho Code.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rules, contact Barbara McIntosh, Commission of Pardons and Parole, P.O. Box 83720, Boise, ID 83720, 208-334-2520.

Anyone can submit written comment regarding the proposed rules. All written comments and data concerning the proposed rules must be directed to the undersigned and must be postmarked or delivered on or before November 28, 2001.

Dated this 21st day of August, 2001.

Olivia Craven, Executive Director  
Commission of Pardons and Parole  
P.O. Box 83720  
Boise, ID 83720  
208-334-2520

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 50-0101-0101**

**000. LEGAL AUTHORITY.**

This chapter is adopted in accordance with Section 20-223(a), Idaho Code, the commission shall promulgate rules have the power to establish rules, policies, or procedures in compliance with Title 67, Chapter 52, Idaho Code.  
(3-23-98)(8-21-01)T

**001. TITLE AND SCOPE.**

**01. Title.** These rules shall be cited as IDAPA 50.01.01, "Rules of the Commission of Pardons and Parole". (8-21-01)T

**02. Scope.** The rules govern parole for the state of Idaho. (3-23-98)(8-21-01)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**003. ADMINISTRATIVE APPEALS.**

This chapter does not provide for appeal of the administrative requirements for agencies. (8-21-01)T

**004. INCORPORATION BY REFERENCE.**

There are no documents incorporated by reference into these rules. (8-21-01)T

**005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.**

The Commission of Pardons and Parole is located at 3125 S. Shoshone, Boise, Idaho 83705. Business hours are typically 8 a.m. to 5 p.m. Monday through Friday, excluding holidays. Mail regarding the Commission rules should be directed to P.O. Box 83720, Statehouse Mail, Boise, Idaho 83720-1807. (8-21-01)T

**006. PUBLIC RECORDS ACT COMPLIANCE.**

The rules contained herein have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records. (8-21-01)T

**0037. -- 009. (RESERVED).**

**010. DEFINITIONS.**

**01. Abscond.** Depart secretly or to avoid supervision. (3-23-98)

**02. Case Worker.** For purposes of reference, the caseworker is an Idaho department of correction employee who is involved with assisting inmates/parolees regarding their problems, needs, and adjustments. Such case worker may have the title of psycho-social rehabilitation specialist, counselor, social worker, psych-tech, clinician, or other. (8-21-01)T

- 023. Commission Warrant.** Warrant of arrest for alleged parole violation issued by the executive director or a commissioner. This warrant is a non-bondable warrant. (3-23-98)
- 034. Commutation.** Clemency powers granted to the commission and governor which allow for a sentence to be modified. (3-23-98)
- 045. Concurrent Sentence.** Sentence served at the same time as another. (3-23-98)
- 056. Conditions Of Parole.** Conditions under which a prisoner is released to parole supervision. (3-23-98)
- 067. Confidential.** Privileged from disclosure. (3-23-98)
- 078. Consecutive Sentence.** Sentence served upon completion of another sentence or before beginning another sentence. (3-23-98)
- 089. Decision.** A determination arrived at after consideration, a conclusion. (3-23-98)
- 0910. Detainer.** Implementation of constitutional duty and interstate compact to hold in custody for another jurisdiction. (3-23-98)
- 101. DOR.** Disciplinary Offense Report. (3-23-98)
- 112. Early Parole Discharge.** Release from further custody of parole supervision prior to the maximum expiration date and after statutory minimum of one (1) year has been completed. (3-23-98)
- 123. Escape.** Flight from confinement. (3-23-98)
- 134. Fixed Term.** Portion of sentence during which the convicted person is not eligible for parole. (3-23-98)
- 145. Full Term Release Date.** The date a prisoner completes the term of sentence without good time credits. (3-23-98)
- 156. Good Time Release Date.** The date a prisoner completes the term of sentence, minus statutory good time credits when applicable. (3-23-98)
- 167. Hearing.** A proceeding in which evidence, including file material, letters, and/or testimony, is considered for use in decision-making. (3-23-98)
- 178. Hearing Session.** A series of hearings conducted by the commission. (3-23-98)
- 189. Institutional Parole.** Parole granted to one (1) or more consecutive sentences or terms where the inmate/parolee remains incarcerated on other consecutive sentences. If released to parole on the remaining consecutive sentences, the parole becomes a regular parole. (3-23-98)
- 1920. Jacket, File, Or Case Review.** Review of central file, Commission file, and/or additional information submitted, without testimony or interview of inmate or parolee. (3-23-98)
- 201. NCIC.** National Crime Information Center. (3-23-98)
- 212. Non Restricted Sentence.** Sentence not restricted by statute. (3-23-98)
- 223. On-Site Parole Violation Hearing.** Parole violation hearing to determine guilt or innocence which may be held near the site of the alleged violation(s). (3-23-98)

**234. Open Parole Date.** Tentative parole granted without setting an actual tentative parole date and subject to release by commission authorization; a tentative parole date will become an open parole date if the tentative parole date passes without the subject being released to an acceptable plan on the specific date. (3-23-98)

**245. Pardon.** Clemency powers granted to the commission and governor that allows release from consequences of conviction of a crime. (3-23-98)

**256. Parole.** Conditional release from a penal institution under a contractual agreement between the Commission of Pardons and Parole and a convicted felon. Parole is not a right, but is a matter of grace. (3-23-98)

**267. Permanently Incapacitated.** As defined in Section 20-223, Idaho Code, permanently incapacitated shall mean a person who, by reason of an existing physical condition which is not terminal, is permanently and irreversibly physically incapacitated. (3-23-98)

**278. Recision.** Cancellation of a previous decision. (3-23-98)

**289. Reprieve.** Temporary suspension of the execution of sentence; delay a punishment. (3-23-98)

**2930. Restricted Sentence.** Sentence restricted by Idaho Statutes, by carrying a mandatory minimum to serve prior to parole eligibility. (3-23-98)

**301. Return Of Service.** Documents required to be served on an alleged parole violator at the time he is served with specific charges of parole violation. Describes hearings and rights the subject is entitled to. (3-23-98)

**312. Revocation File.** File containing the documents pertinent to a particular violation/revocation proceeding. (3-23-98)

**323. Session.** See "Hearing Session". (3-23-98)

**334. Statutory Release Date.** Maximum full-term expiration date, minus any good time credits accumulated during incarceration. (3-23-98)

**345. Substantive Conditions Of Parole.** Conditions of parole which relate to the rehabilitation of a parolee (performance of community service, use of alcohol, use of a motor vehicle, limitations on financial matters, etc.). (3-23-98)

**356. Technical Violation.** Violation of parole by not conforming to rules of parole, not to include absconding and new criminal conviction. (3-23-98)

**367. Terminally Ill.** As defined by Section 20-223, Idaho Code, terminally ill shall mean a person who has an incurable condition caused by illness or disease and who is irreversibly terminally ill. (3-23-98)

**378. Victim.** As described by Section 19-5304, Idaho Code, "shall mean a person or entity, named in the complaint, information or indictment, who suffers economic loss or injury as the result of the defendant's criminal conduct and shall also include the immediate family of a minor and the immediate family of the actual victim in homicide cases." (3-23-98)

**389. Witness.** Anyone who observes a hearing, appears as attorney for the subject of a hearing, or others who provide written or verbal testimony. (3-23-98)

**(BREAK IN CONTINUITY OF SECTIONS)**

**100. GENERAL PROVISIONS.**

The rules contained herein govern practice and procedure of the Idaho Commission of Pardons and Parole, hereafter

referred to as the commission. The commission reserves the right to deviate from established rules whenever special circumstances warrant, and to act, at its discretion, in circumstances not specifically outlined but within confines established by the constitution and statutes. (3-23-98)

**01. Hearings.** All hearings of the commission shall be conducted in accordance with the open meeting law as provided in Chapter 23, Title 67 Idaho Code and as modified by Section 20-213A, Idaho Code. (3-23-98)

a. Deliberations concerning the granting, revoking, reinstating or refusing of paroles, or related decisions, to include commutations and pardons, may be made in executive session. (3-30-01)

b. Votes of individual members will not be made public. (3-23-98)

i. A written record of the vote by each commission member shall be kept confidential and privileged from disclosure, provided the record shall be made available upon request, for all lawful purposes as outlined by Section 20-213A. (3-23-98)

ii. Distribution of the record by a commissioner or an employee of the commission to any person not specifically listed in this section shall be a misdemeanor. (3-23-98)

c. Any person can obtain the results of any action taken by the commission without reference to the manner in which any individual member voted, and such information shall be public information. (3-23-98)

**02. Hearing Sessions.** The commission may schedule regular monthly hearings but will meet at least quarterly. (3-23-98)

a. The executive director will schedule hearing sessions. (3-23-98)

b. The executive director may designate one (1) of the members of the commission as the presiding officer to conduct individual hearings or a hearing session. (3-23-98)

**03. Business Meetings.** The commission ~~shall conduct~~ schedules a business meeting at least quarterly or at the call of the executive director and notice of such meetings will comply with the open meeting law requirements. Such meetings may be cancelled at the vote of a majority of the commission or by the executive director if the scheduled business cannot be conducted. (~~3-23-98~~)(8-21-01)T

**04. Record Of Hearings And Meetings.** (3-23-98)

a. Summary minutes of individual hearings and case reviews will be maintained in the commission office and will be approved and signed by the executive director, a commissioner, or designee of the executive director. (3-30-01)

b. Summary minutes of business meetings will be maintained in the commission office. (3-23-98)

i. The summary minutes of the business meetings will be reviewed by the commissioners who are present at a subsequent business meeting. (3-23-98)

ii. The summary minutes as approved by the commissioners will be signed by the executive director or designee. (3-30-01)

**05. Previous Decisions.** The commission reserves the right to review or reconsider any previous decision for any reason and to take whatever action is agreed upon. (3-23-98)

**06. Individual Polling Of The Commission.** The executive director may conduct an individual poll of the commission to obtain a majority vote regarding a case or business matter in which a decision must be made prior to the next session or meeting. (3-23-98)

**07. APA Applicability.** The commission shall have the power to establish rules under Chapter 52, Title

67, Idaho Code (Administrative Procedures Act). No other provision or requirement of the Administrative Procedures Act shall apply to the commission. (3-23-98)

**08. Rights, Powers, And Authority Of The Commission.** (3-23-98)

a. The commission succeeds to and has all rights, powers and authority of the Board of Pardons as granted and provided by the provision of the constitution of the state of Idaho, in reference to commutation, pardon, and remission of fines. (3-23-98)

b. The commission has the power to decide whether or not any prisoner who is eligible for parole may be released to parole. (3-23-98)

c. The commission may act as the advisory commission to the board of correction. (3-30-01)

**(BREAK IN CONTINUITY OF SECTIONS)**

**300. VICTIMS.**

**01. Program For Victims.** The commission has established a program for victims of criminal offenses for which an inmate has been committed to the institution and is not serving a court-retained jurisdiction term. Victims of non-adjudicated cases may be given courtesy treatment. ~~(3-23-98)~~(8-21-01)T

a. The commission will establish a record for victims of inmates who may be considered for parole, commutation, or pardon. (3-23-98)

i. To establish a victim record, the commission must receive official written notice from the clerk of the sentencing court or the county prosecutor's office; the commission will not be responsible to notify victims of their rights if this official notice has not been received. (3-23-98)

ii. If the commission has not received official notice of the victim, the commission or staff may be advised directly by the victim, family or other; commission staff will verify the name or names of the victim(s) with the county prosecutor and a record will be established. (3-23-98)

b. The commission will notify legal victims of their right to be notified of parole, commutation, and pardon hearings and decision of these hearings; their right to submit written statements or information; and, their right to provide testimony. (3-23-98)

c. Notice of rights, hearings, decisions, and parole releases will be sent to the victim of record to the last known address, and it is the responsibility of the victim to provide any change of address. (3-23-98)

d. A victim may request that he not be notified or contacted. (3-30-01)

e. Victims will receive notices of releases to parole, but the commission is not responsible to advise of any other releases such as inmate transfers to other facilities, release by completion of the sentence, or escapes from custody as these are not under the authority of the commission. (3-23-98)

**02. Confidentiality Of Victim's Address And Written Testimony.** The victim's record maintained by the commission to include the address and written testimony or information will be maintained in a confidential manner and is not subject to disclosure to anyone for any reason. (3-23-98)

**03. Testimony Of Victim.** (3-23-98)

a. The victim is invited to attend any and all hearings pertinent to the case and to provide testimony. (3-23-98)

b. The executive director and the commission may choose to allow for the victim's testimony away from the actual hearing process. (3-23-98)

i. The victim may give information to the executive director or commissioner(s) at the commission office or other location as determined and such information may be maintained in a confidential manner. (3-23-98)

ii. The victim may be allowed to testify before the commission during a hearing session but a time separate from the actual hearing with the inmate, and such testimony will be made a part of the record. (3-23-98)

c. If the commission was not officially notified of the victim and does become aware of the victim's desire to be heard following a hearing, any scheduled release to parole may be held in abeyance until a decision is made by the commission. (3-23-98)

i. The commission may review any written testimony by the victim and may elect to take no further action, may schedule another hearing, or may void the release date and reconsider the parole grant. (3-23-98)

ii. The executive director may schedule a hearing without the vote of the commission to allow for the victim's testimony. (3-23-98)

**(BREAK IN CONTINUITY OF SECTIONS)**

**350. PAROLE PLAN AND RELEASE PROCEDURES.**

**01. Parole Plan.** The parole plan needs to provide for the positive re-entry of the inmate back into the community. (3-23-98)

a. The ~~inmate must submit~~ case worker will discuss the parole plan with the inmate and may direct ~~that~~ the proposed parole plan be submitted on designated forms. ~~(3-30-01)~~(8-21-01)T

b. The proposed parole plan must be available at the parole consideration hearing, either presented verbally or in writing if instructed by the case worker or hearing officer, and must address the following: ~~(3-23-98)~~(8-21-01)T

i. A stable residence must be developed which will provide for the most positive re-entry into the community if a release to parole is granted. (3-23-98)

ii. If the inmate is unable to work, information must be provided as to the maintenance and care which will be provided. (3-23-98)

iii. The particular needs of the offender must be addressed, such as treatment for alcohol or drug problems, mental health problems, sex offender treatment, or other. (3-23-98)

c. Educational programs may be considered. (3-30-01)

d. In cases where the commission does not approve the proposed parole plan and a tentative parole date is granted, the executive director can approve or deny a subsequent plan. (3-30-01)

e. All parole plans will be investigated by field services staff in the area in which the prospective parolee plans to reside, and necessary information will be submitted along with the investigation request. The commission may waive such investigation in a special case. ~~(3-23-98)~~(8-21-01)T

i. An Idaho parole plan may take a minimum of six (6) weeks to submit the information, investigate the plan, and plan for release. (3-23-98)

- ii. An out-of-state plan may take at least three (3) months to investigate and process the plan. (3-23-98)
- 02. Interstate Compact Parole Plan.** Any offender who is granted parole through the interstate compact may be required to post a bond prior to release from incarceration or prior to such acceptance under the compact. (3-30-01)
- a. The bond fee shall be used for the purpose of returning offenders who are charged with violating conditions of their parole. (3-30-01)
- b. The amount of the bond is set by the commission at five hundred dollars (\$500). (3-30-01)
- i. The bond shall be posted at the commission office by the offender, the offender's family, or other interested party. A cashier check or money order shall be the only acceptable means of posting bond. (3-30-01)
- ii. The amount of the bond includes an indigent fee of sixty dollars (\$60) to provide for offenders without financial means or support to post the bond. (3-30-01)
- iii. The amount of the bond includes an administrative fee of thirty-five dollars (\$35) to operate this program. (3-30-01)
- c. Upon successful completion of parole, the amount of the bond will be returned, less the amount for administrative costs and the indigent fee. (3-30-01)
- d. An application for bond fee exemption may be filed if an offender has no ability to post the bond. (3-30-01)
- i. An application form may be obtained from the commission office. (3-30-01)
- ii. The application shall be reviewed by the commission and their decision will be final. (3-30-01)
- 03. Tentative Parole Dates.** All parole release dates granted by the commission are tentative. (3-23-98)
- a. The parole plan must be approved and received at the commission office before the actual release date can be set to allow time for processing the release. An exception would be such case as the commission waived the parole plan investigation. ~~(3-23-98)~~(8-21-01)T
- b. If the inmate should have disciplinary problems following the parole grant hearing, the commission may reconsider the decision, and the tentative parole date may be voided. (3-23-98)
- c. If the commission receives information that was not available at the time of the parole grant hearing, the commission may review the information or may schedule another hearing, and the tentative parole date may be voided. (3-23-98)
- 04. Contract.** Prior to any release to parole, the prospective parolee must sign a contract with the commission and must agree to all general and special conditions of parole. (3-23-98)
- 05. Reporting And Release Instructions.** (3-23-98)
- a. The parolee will be given instructions who to report to, which will include the address and the telephone number of the supervising office. (3-23-98)
- b. It is the responsibility of the parolee to arrange for transportation upon release. (3-23-98)
- i. The parolee must go directly to the destination approved by the commission or executive director.

(3-23-98)

ii. The parolee must request permission to deviate from direct travel to the approved location, and such request must be in writing to the commission office at least two (2) weeks in advance of the established release date. (3-23-98)

**(BREAK IN CONTINUITY OF SECTIONS)**

**400. PAROLE REVOCATION PROCESS.**

**01. Initiated.** The parole revocation process is initiated by a written or verbal report describing the rules of parole which are alleged to have been violated. (3-23-98)

a. Verbal information may be provided to the executive director. (3-23-98)

b. A progress report may be submitted to the executive director. (3-23-98)

c. A report of violation may be submitted to the executive director. (3-23-98)

**02. Warrants.** A warrant may be issued for the offender's arrest. (3-23-98)

a. A supervising agency may issue an investigative warrant which may be referred to as an agent's warrant. (3-23-98)

b. A commission warrant may be issued by the executive director or a commissioner, and issuance of this warrant suspends the offender's parole until a determination has been made on the merits of the case. (3-23-98)

i. If the location of the parolee is known, the warrant may be served on the offender or placed as a detainer. (3-23-98)

ii. If the location of the offender is unknown, the warrant will be entered into NCIC or I-HOT and will designate which states the commission will extradite the offender from once arrested. (3-23-98)

iii. If another state is holding the offender in custody on new charges in their state, the warrant may be placed as a detainer only and written notice of this action will be submitted to the holding facility; if the detainer is officially served on the offender without notice of this action to the commission, the commission will not be held responsible for the time limits prescribed by law for service of charges. (3-23-98)

iv. If the offender is arrested in a state other than Idaho and refuses extradition to Idaho, it may be necessary to request a governor's warrant; during the time period in which the subject refuses to waive extradition, time incarcerated will not be credited toward the sentence. (3-23-98)

**03. Due Process.** Every parolee arrested on a commission warrant for alleged violation(s) of parole is entitled to pertinent due process. (3-23-98)

a. The alleged parole violator is entitled to reasonable notice of the date, time and location of any and all hearings involved in the revocation process. (3-23-98)

b. The alleged parole violator has the right to appear at a hearing and address the allegations. (3-23-98)

c. The alleged parole violator may confront and cross-examine person(s) who have given adverse information on which the charges have been based. (3-23-98)

**04. Witnesses.** The alleged parole violator or the accusing parole officer may present witnesses in support of the claims of the allegations or in defense of the charges. (3-23-98)

a. The commission has no subpoena power to compel any witness to attend a hearing. (3-23-98)

b. The alleged parole violator may make a timely written request to the commission office for certain adverse witnesses to be available for cross-examination, and such request must include the name, address, telephone number, and relationship to the case; the hearing officer will make reasonable efforts to request their participation. (3-23-98)

c. If it is determined by the hearing officer or the executive director that the identification of an informant or the personal appearance of a witness would subject such person to risk or harm, confrontation or cross-examination will not be allowed and the record will reflect such determination. (3-23-98)

d. The personal appearance of a witness may not be feasible; the hearing officer may determine if the witness should be interviewed by telephone and whether the information specifically addresses the allegations. (3-23-98)

e. It is the alleged parole violator's responsibility and the accusing parole officer's responsibility to notify the witnesses of the date, time, and location of any and all hearings or change of hearings. (3-23-98)

**05. Attorney.** The alleged parole violator may utilize the services of an attorney at any hearing conducted during the revocation process. (3-23-98)

a. An attorney will be paid at the alleged parole violator's expense unless it is determined by a hearing officer for the commission, the executive director, or the commission that there is a colorable claim that the alleged violation(s) did not occur, that the alleged parole violator does not understand the proceedings, or is otherwise incapable of representing himself. (3-23-98)

b. It is the alleged parole violator's responsibility to notify his attorney of the date, time, and location of any and all hearings or change of hearings. (3-23-98)

c. It is the alleged parole violator's responsibility to provide the attorney with any and all reports and documents; in addition, the subject's attorney may also obtain copies by making a request to the commission office. (3-23-98)

**06. Hearings.** The alleged parole violator will be advised of any and all hearing dates and locations within a reasonable time frame. (3-23-98)

a. The hearing officer or executive director will determine the location of all hearings. (3-23-98)

b. The subject may request continuance or waiver of any hearing which is subject to the final determination of the hearing officer, executive director, or the commission. (3-23-98)

c. The type of charges addressed in the allegations will determine the kinds of hearings available to the alleged parole violator. (3-23-98)

i. Non-technical violations. If the alleged parole violator is charged with a conviction for a misdemeanor or felony criminal conviction or is charged with absconding from supervision, the subject is not entitled to a preliminary or on-site hearing, and is entitled to a hearing to determine guilt or innocence within a reasonable time following service of the charges. (3-23-98)

ii. Technical violations. If the alleged parole violator is charged with a violation of the rules of parole other than a misdemeanor or felony criminal conviction or absconding from supervision, the subject is entitled to a preliminary hearing and an on-site hearing, and is entitled to a hearing to determine guilt or innocence within thirty (30) days from the date the accused was served with the charges of the violation. (3-23-98)

d. Preliminary hearing. A technical parole violator is entitled to a preliminary hearing to establish whether or not there is probable cause to believe the violations may have occurred, and such hearing will be conducted by staff of field and community services or as otherwise directed by the executive director. (3-23-98)

e. On-Site hearing. A technical parole violator is entitled to an on-site hearing. (3-23-98)

i. The on-site hearing is conducted reasonably near the site of the alleged parole violation(s). The executive director will determine where the hearing will be conducted. ~~(3-23-98)~~(8-21-01)T

ii. In situations where the violation(s) occurred outside the state of Idaho, the executive director or hearing officer will determine the location of the hearing. (3-23-98)

f. Violation hearing. In most cases, a hearing officer will conduct a fact-finding or violation hearing and will make a finding on each allegation as to the guilt or innocence and may dismiss some or all allegations. (3-23-98)

g. Revocation. Pursuant to a violation hearing or waiver of such hearing and a finding of guilt was made on one (1) or more of the violations, the commission will consider whether or not parole will be revoked. ~~(3-23-98)~~(8-21-01)T

i. A commission hearing with the offender may be conducted or the decision may be made along with deliberation on an Absentia Parole Revocation. (see Subsections 400.06.h.i. and 400.06.h.ii.) (3-30-01)

ii. The commission will consider whether the parole will be revoked. (3-23-98)

iii. The commission will consider parole and state the reasoning if parole is not granted. (3-23-98)

h. Absentia hearing. The commission can revoke parole without the subject's appearance if the subject has signed the proper commission form waiving the right to appear before the commission. The Commission will determine if parole will be considered once the revocation decision has been made. (3-23-98)

i. If new criminal charges result in a new commitment and incarceration, the subject can admit guilt and waive an appearance at a violation or revocation hearing. (3-23-98)

ii. If the subject has absconded supervision and is reincarcerated in another state without a new conviction, the subject can admit guilt and waive an appearance at a violation or revocation hearing. (3-23-98)

**07. Miscellaneous Revocation Information.** (3-23-98)

a. The executive director will determine who will conduct all hearings involved in the revocation process. (3-23-98)

b. The commission, through the executive director shall designate the county, state, or other facility where the alleged parole violator shall be held. The commission's order shall be sufficient authority by law to direct any county sheriff or the board of correction to hold an alleged parole violator in custody until such time as the commission directs his removal or transfer. (3-23-98)

c. The alleged parole violator can request a continuance of any hearing. (3-23-98)

i. The hearing officer, executive director, or the commission will determine if the continuance will be granted. (3-23-98)

ii. If the alleged parole violator requests a continuance of any hearing, he, thereby, waives any and all time limits involved. (3-23-98)

**08. Inability To Assist In Defense.** (3-23-98)

- a. Specific time limits pertinent to the case may be waived. (3-23-98)
- b. At the hearing officer or executive director's discretion, an attorney may be appointed at commission expense. (3-23-98)
- c. A psychological evaluation may be requested and mental health treatment may be deemed appropriate. (3-23-98)
- d. A status update of the case will be made at regular intervals, and the executive director will determine how the case will proceed. (3-23-98)

**09. Findings/Decisions.** (3-23-98)

- a. At any time following arrest on a commission warrant, ~~the parole officer may request that the parolee be released to continue parole and~~ the executive director or the commission will decide if the parolee will be released to continue parole. ~~(3-23-98)~~(8-21-01)T
- b. If it is determined at the preliminary hearing that there is no probable cause to support the charges, the parolee will be released to continue parole. (3-23-98)
- c. After a violation hearing, the hearing officer will prepare a report of findings. (3-23-98)
  - i. The report will be a summary of the violation hearing, to include testimony, and will make specific findings for each allegation. (3-23-98)
  - ii. The hearing officer may make a finding of guilt but may recommend to the executive director that the offender be reinstated on parole without further proceedings. (3-23-98)
  - iii. The offender is entitled to receive a copy of all reports of findings of hearings. (3-23-98)
  - iv. The offender is entitled to a verbal or written decision within twenty (20) days of the hearing. (3-23-98)

**10. Forfeiture Of Time On Parole.** If parole is revoked, the time during which the offender was on parole from the parole release date to the arrest date on an investigative warrant and/or commission warrant may be forfeited, in whole or in part, and may not be deemed a part of the sentence for which the offender was committed. (4-5-00)

- a. The time the offender is incarcerated on an investigative agent's warrant and a commission warrant will be credited toward the sentence. (3-23-98)
- b. If the offender was incarcerated at any time during the parole period and such incarceration was on an agent's warrant and/or commission warrant, this time will be credited toward the sentence; this includes a reinstatement case. (3-23-98)
- c. The offender will not receive credit for incarceration time if the incarceration was for a new crime and the commission and parole officer did not initiate violation proceedings. (3-23-98)
- d. The offender must provide the hearing officer or the executive director with dates of incarceration and the location of the incarceration. (3-23-98)

**(BREAK IN CONTINUITY OF SECTIONS)**

**450. COMMUTATION.**

Commutation is a process whereby clemency may be considered and granted to modify a sentence imposed by the sentencing jurisdiction. (3-30-01)

- 01. Petition.** A petition must be submitted to initiate the process. (3-30-01)
  - a. The only acceptable form is the one provided by the commission, and it must be signed by the petitioner. (3-23-98)
  - b. The petition must be completed correctly per instructions on the form or it may be returned. (3-23-98)
  - c. The petition must contain the reason a modification of sentence is requested and the precise modification which is requested, such as the following. (3-23-98)
    - i. Change a consecutive sentence to concurrent. (3-23-98)
    - ii. Reduce the maximum length of sentence. (3-23-98)
    - iii. Reduce the minimum fixed term of a sentence. (3-30-01)
    - iv. Change a fixed sentence to indeterminate. (3-23-98)
    - v. Change a sentence in any other manner not described. (3-23-98)
  - d. The commission may consider but one (1) application from any one (1) person in any twelve (12) month period. (3-23-98)
  - e. Petitions may be considered at any time by the commission, but are usually scheduled for consideration for the quarterly sessions of January, April, July, and October. (3-23-98)
  - f. Petitions must be received no later than the first day of the month of a designated quarterly session. (3-23-98)
  - g. Review or deliberation on the petition by the commission will be conducted in executive session. (3-23-98)
  - h. Any petition may be continued for additional information or for further consideration. (3-23-98)
  - i. The petitioner will be sent written notice of the decision. (3-23-98)
  - j. The petition is limited to no more than four (4) pages; the petition may be returned before submission to the commission if the document exceeds this number. (3-23-98)
  - k. The petition must be readable or it may be returned. (8-21-01)T
- 02. Hearing.** The scheduling of a hearing is at the complete discretion of the commission; if a commutation hearing is scheduled, the commission will determine the date of the hearing. (3-23-98)
  - a. Notice of a commutation hearing will be published in a newspaper of general circulation at Boise, Idaho at least once a week for four (4) consecutive weeks immediately prior to the hearing. (3-23-98)
  - b. A copy of the notice of publication will be mailed to the prosecuting attorney of the county from which the petitioner was committed. (3-23-98)
  - c. All rules of procedure governing hearings will apply to a commutation hearing. (3-23-98)

d. The decision and supporting documents regarding a commutation will be filed with the secretary of state. (3-30-01)

i. All written material considered in the decision process of a commutation will be a matter of public record with the exception of the presentence investigation report and victim information. (3-30-01)

ii. Dissenting votes of the commissioners voting will be a matter of public record. (3-23-98)

**03. Approving And Granting.** Only rarely will circumstances be extraordinary enough to approve a petition for a commutation hearing or to grant a commutation. (3-23-98)

a. The granting of a commutation hearing shall not be interpreted as intent to commute a sentence. (3-23-98)

b. Habilitative progress alone will not be regarded as sufficient to grant a commutation hearing or to commute a sentence. (3-23-98)

**04. Authority To Grant.** The commission has full and final authority to grant commutations except with respect to sentences for murder, voluntary manslaughter, rape, kidnaping, lewd and lascivious conduct with a minor child, and manufacture or delivery of a controlled substance. (3-23-98)

a. In the cases of offenses listed in this section, the commission's decision shall constitute a recommendation only to the governor. (3-23-98)

b. Following such hearing, the commission will provide all information that was considered and a copy of the summary minutes to the governor. (3-23-98)

c. No commutation for the offenses listed in this section will be effective until presented to and approved by the governor, and any commutation recommendations not so approved within thirty (30) days of the commutation hearing shall be deemed denied. (3-23-98)

**05. Death Sentence.** (3-23-98)

a. An individual file of each inmate under sentence of death ~~will~~ may be maintained in the commission office ~~and the status of each case will be updated annually.~~ (3-23-98)(8-21-01)T

b. At any time, the commission may review a file, information, or interview an inmate without activating the commutation process. (3-23-98)

c. Commutation consideration must be initiated by the petitioner or his legal counsel. (3-30-01)

i. The petition must contain the signature of the petitioner. (3-23-98)

ii. Legal counsel must provide verification that he has been retained by the petitioner or his family to prepare and submit the petition. (3-30-01)

d. The commission may elect to receive and consider a petition for a death penalty modification at any time. (3-23-98)

**(BREAK IN CONTINUITY OF SECTIONS)**

**500. SELF-INITIATED PROGRESS REPORT.**

An inmate may appeal the last parole decision of the commission. (3-23-98)

- 01. Petition.** An inmate making a request for reconsideration of parole denial must initiate the process by submitting an application. (3-23-98)
- a. The only acceptable form is the one provided by the commission, and it must be signed by the petitioner. (3-23-98)
  - b. The petition must be completed correctly per instructions on the form or it may be returned. (3-23-98)
  - c. The petition must state the reason reconsideration is requested and the circumstances that have changed since the last hearing. (3-23-98)
  - d. The commission may consider but one (1) application from any one (1) person in any twelve (12) month period. (3-23-98)
  - e. Petitions may be considered at any time by the commission. (3-30-01)
  - f. Petitions must be received no later than the first day of the month. (3-30-01)
  - g. The petition may be submitted no sooner than six (6) months following the last hearing. (3-23-98)
  - h. Review or deliberation on the petition by the commission will be conducted in executive session. (3-23-98)
  - i. Any petition may be continued for additional information or for further consideration. (3-23-98)
  - j. The petitioner will be sent written notice of the decision. (3-23-98)
  - k. The petition is limited to no more than four (4) pages; the petition may be returned before submission to the commission if the document exceeds this number. (3-23-98)
  - l. The petition must be readable or it may be returned. (8-21-01)T
- 02. Hearing.** The scheduling of a hearing is at the complete discretion of the commission. (3-23-98)
- a. If a special hearing is scheduled, the commission will determine the date of the hearing. (3-23-98)
  - b. If a special hearing is scheduled, the previous decision of the commission may be considered null and void. (3-23-98)
- 03. Amended Decision.** The commission may elect to amend any decision without conducting another hearing. (3-23-98)

**(BREAK IN CONTINUITY OF SECTIONS)**

**550. PARDON.**  
A pardon may be considered for a person having been convicted of any misdemeanor or felony crime. (3-23-98)

**01. General.** An application for a pardon may not be considered until a period of time has elapsed since the applicant's discharge from custody as defined below. (3-23-98)

a. Applications for pardon for non-violent and non-sex crimes may be submitted for consideration no sooner than three (3) years after completion of the sentence. (3-23-98)

b. Applications for pardon for violent or sex crimes or other crimes against a person may be submitted five (5) years after completion of the sentence. (3-23-98)

**02. Application.** A pardon application can be obtained from the commission office. (3-23-98)

a. The application must be completed and returned to the commission office. (3-23-98)

i. The completed application must include the reasons why the pardon is requested. (3-23-98)

ii. The applicant may attach letters of recommendation or other documents to support the request. (3-23-98)

b. Following receipt of the completed application, a request for an investigation will be made of correctional field personnel in the area in which the applicant resides, and the report shall include, but shall not be limited to the following: (3-23-98)

i. A criminal record check of the applicant. (3-23-98)

ii. The applicant's employment history since completion of sentence. (3-23-98)

iii. The applicant's status as a good citizen. (3-23-98)

iv. An interview with the applicant should be conducted and a summary of the interview provided. (3-23-98)

v. Any additional information as deemed necessary or appropriate. (3-23-98)

c. If the applicant is residing in a jurisdiction which refuses to conduct an investigation of the case, the applicant may be required to come to Idaho for an interview with a parole officer or hearing officer. A normal investigation will then be completed. (8-21-01)T

**03. Report.** Pursuant to the receipt of the completed report, a review will be conducted at the next scheduled hearing session of the commission. (3-23-98)

a. The commission will conduct such review in executive session. (3-23-98)

b. The commission will determine whether a hearing will be granted and the applicant will be advised of the decision. (3-23-98)

c. Any application may be continued for further consideration or additional information. (3-23-98)

**04. Hearing.** The scheduling of a hearing is at the complete discretion of the commission or the executive director; if a pardon hearing is scheduled, the commission will determine the date of the hearing. (3-23-98)

a. Notice of a pardon hearing shall be published in a newspaper of general circulation at least once a week for four (4) consecutive weeks immediately prior to the hearing. (3-23-98)

b. A copy of the publication will be mailed to the prosecuting attorney of the county from which the petitioner was sentenced. (3-23-98)

c. Written notice of the hearing date, time and location will be sent to the applicant at the address given on the application or as otherwise requested. (3-23-98)

i. The applicant's appearance at the hearing is not mandatory but is encouraged. (3-23-98)

ii. The commission may continue the hearing to a later date in order for the applicant to make a personal appearance and such continuance will not require additional publication of the hearing. (3-23-98)

- d. All rules of procedure governing hearings will apply at a pardon hearing. (3-23-98)
- e. The decision and supporting documents regarding the decision to grant or deny a pardon will be filed with the secretary of state. (3-23-98)
- i. Dissenting votes of the commissioners voting are submitted to the office of the secretary of state and become a matter of public record. (3-23-98)
- ii. All written material considered in the decision process with the exception of the presentence investigation report and victim information will be submitted to the office of the secretary of state and will be a matter of public record. (3-23-98)
- f. The applicant will be given written notice of the decision and such notice will be sent to the last known address. (3-23-98)
- 05. Authority To Grant.** The commission has full and final authority to grant pardons, except with respect to sentences for murder, voluntary manslaughter, rape, kidnaping, lewd and lascivious conduct with a minor child, and manufacture or delivery of controlled substances. (3-23-98)
- a. In the cases listed in this section, the commission's decision to grant a pardon shall constitute a recommendation only to the governor. (3-23-98)
- b. Following such hearing, the commission will provide all information that was considered and a copy of the summary minutes to the governor. (3-23-98)
- c. No pardon for the offenses listed in this section will be effective until presented to and approved by the governor, and any pardon recommendations not so approved within thirty (30) days of the pardon hearing shall be deemed denied. (3-23-98)

**IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY**

**REFERENCE NO. 58-0000-0101**

**NOTICE OF IMPLEMENTATION OF PUBLIC RECORD COPYING FEE SCHEDULE**

**NOTICE:** Notice is hereby given that the Department Environmental Quality (DEQ) has established a fee schedule to recover the actual labor costs associated with locating and providing a copy of public records. The fee schedule became effective November 1, 2001.

**AUTHORITY:** Section 9-338, Idaho Code, authorizes DEQ to establish a copying fee schedule not to exceed the actual cost to DEQ of copying the record.

**DESCRIPTIVE SUMMARY:** Section 9-338, Idaho Code, authorizes DEQ to establish a copying fee schedule not to exceed the actual cost to DEQ of copying the record. The provision further provides that the actual cost to DEQ shall not include any administrative or labor costs resulting from locating and providing a copy of the public record; provided however, that DEQ may establish a fee to recover the actual labor cost associated with locating and copying documents if: 1) the request is for more than one hundred (100) pages; 2) the request includes records from which nonpublic information must be deleted; or 3) the actual labor associated with locating and copying documents for a request exceeds two (2) person hours. Pursuant to Section 9-338, Idaho Code, DEQ adopts the following fee schedule:

<b>Idaho Code Reference</b>	<b>Type of work involved</b>	<b>Costs</b>
9-338(8)(a)	Photocopying less than 50 sheet pages on standard 8 ½" x 11" paper	No charge
9-338(8)(a)	Photocopying more than 50 sheet pages but less than 100 pages on standard 8 ½" x 11" paper	Actual copying cost of \$.10 per page
9-338(8)(a)	Photocopying on sheets other than standard 8 ½" x 11" paper (e.g. blueprints, maps)	Actual copying cost, varies depending on size
9-338(8)(a)	Retrieval of archived information	\$3 per box, actual out of pocket cost
9-338(8)(a)(i)	Photocopying more than 100 sheet pages on standard 8 ½" x 11" paper	\$12 per hour plus \$.10 per page
9-338(8)(a)(ii)	Request includes records from which non-public information must be deleted	\$12 per hour plus \$.10 per page
9-338(8)(a)(iii)	Where actual labor associated with locating and photocopying/printing hard copy and/or electronic documents exceeds two (2) person hours	\$12 per hour plus \$.10 per page
9-338(8)(b)(i)	Where DEQ has an out of pocket cost	Actual out of pocket cost
9-338(8)(b)(ii)	Where DEQ has a standard charge for selling information in the form of a publication	Standard cost for selling information in the form of the publication

**AGENCY CONTACT:** For assistance with questions regarding the fee policy, contact Jason Jedry at (208)373-0502, [jjedry@deq.state.id.us](mailto:jjedry@deq.state.id.us).

DATED this 10th day of October, 2001.

C. Stephen Allred, Administrator  
Department of Environmental Quality  
1410 N. Hilton  
Boise, ID 83706-1255

# Bulletin Summary of Proposed Rulemakings

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## **PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES**

The following agencies of the state of Idaho have published the complete text and all related, pertinent information concerning their intent to change or make the following rules in the new issue of the state Administrative Bulletin.

### **IDAPA 11 - IDAHO STATE POLICE PO Box 700, Meridian, ID 83680-0700**

Docket No. **11-0501-0102** - Rules Governing Alcohol Beverage Control. Adds table for a staggered alcohol license renewal system by county that is based on number of current licenses in each county. Comment by: 11/28/01.

### **IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE PO Box 83720, Boise, ID 83720-0036**

Docket No. **16-0304-0103** - Rules Governing the Food Stamp Program in Idaho. Revises the gross and net monthly income limits, excess shelter, and allotment levels for Food Stamp households. Comment by: 11/28/01.

Docket No. **16-0319-0101** - Rules Governing Certified Family Homes. Adds waiver criteria for certifying agency to use for Certified Family Homes that are interested in increasing their certified bed capacity from two to three or four beds. Comment by: 11/28/01.

Docket No. **16-0319-0102** - Rules Governing Certified Family Homes and Docket No. **16-0322-0101** - Rules For Licensed Residential and Assisted Living Facilities in Idaho. Adds the language "arrange for" to clarify that a certified family home or facility does not have a legal duty to provide emergency transportation for residents who are intensely violent, suicidal, or acutely ill, but instead makes the home or facility responsible for arranging for emergency transportation of such residents. Comment by: 11/28/01.

Docket No. **16-0504-0101** - Rules of the Idaho Council on Domestic Violence Grant Funding. Changes name of chapter and implements changes to state law affecting the rule. Comment by: 11/28/01.

Docket No. **16-0601-0101** - Rules Governing Family and Children's Services. Changes conform to state statutory and federal regulatory changes and include: defining legal guardianship and guardianship assistance; delineates services for guardianship assistance; standardizes measurement of substantial impairment for a child to qualify for Children's Mental Health Services; relatives who adopt are no longer eligible for non-recurring adoption assistance; requires annual report on the number of international adoption disruptions in each state. Comment by: 11/28/01.

### **IDAPA 22 - IDAHO STATE BOARD OF MEDICINE PO Box 83720, Boise, ID 83720-0058**

Docket No. **22-0101-0101** - Rules of Board of Medicine for Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery. Complies with Federal guidelines for processing of fingerprints required on each physician applicant for criminal background checks; allows foreign-trained physicians that have graduated from unapproved medical schools an avenue for licensure in Idaho. Comment by: 11/28/01.

### **IDAPA 48 - DEPARTMENT OF COMMERCE PO Box 83720, Boise ID 83720-0093**

Docket No. **48-0103-0101** - Rules of the Idaho Regional Travel and Convention Grant Program. Updates required sections of rule; changes per diem and use of registered vendors per statute; replaces existing print and credit statement requirements with a standard, approved logo. Comment by: 11/28/01.

**IDAPA 50 – COMMISSION OF PARDONS AND PAROLE**  
**P.O. Box 83720, Boise, ID 83720**

Docket No. **50-0101-0101** - Rules of the Commission of Pardons and Parole. Adds definitions of terms and renumbering; allows for cancellation of quarterly business meetings; broadens the victim program; adds an electronic parole plan; adds to the parole revocation process and pardon application process; clarifies the commutation process and deletes death row file maintenance and the Self Initiated Progress Report process. Comment by: 11/28/01.

**PUBLIC HEARINGS** - Public Hearings Have Been Scheduled For The Following Dockets:

**Division of Building Safety**

Docket No. **07-0104-0102**, Rules Governing Electrical Specialty Licensing

Please refer to the Idaho Administrative Bulletin, **November 7, 2001, Volume 01-11** for notices and text of all rulemakings, public hearing schedules, Governor's executive orders, and agency contact names.

**Citizens of your county can view all issues of the Idaho Administrative Bulletin at the county law libraries.**

Copies of the Administrative Bulletin and other rules publications are available for purchase. For subscription information and ordering call (208) 332-1820 or write the Office of Administrative Rules, Department of Administration, 650 W. State St., Room 100, Boise, Idaho 83720. Visa and Mastercard accepted.

The Idaho Administrative Bulletin and Administrative Code are available on-line at: <http://www2.state.id.us/adm/adminrules/>

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and includes negotiated, temporary, proposed, pending  
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