

# IDAHO ADMINISTRATIVE BULLETIN

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March 1, 2006 -- Volume 06-3

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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 monthly compilation of all administrative rule-making documents in Idaho. The Bulletin publishes the official rulemaking notices and administrative rule text of state agency rulemakings and other official documents as necessary.*

*State agencies are required to provide public notice of rulemaking activity and invite public input. The public receives notice of 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 Rulemaking Notice published in the Bulletin. 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 rule-making activities.*

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

*The Bulletin is cited by year and issue number. For example, Bulletin 05-1 refers to the first Bulletin issued in calendar year 2005; Bulletin 06-1 refers to the first Bulletin issued in calendar year 2006. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. 05-1 refers to January 2005; Volume No. 05-2 refers to February 2005; and so forth. Example: The Bulletin published in January of 2006 is cited as Volume 06-1. The December 2005 Bulletin is cited as Volume 05-12.*

## **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 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 Rulemaking Index of Idaho Administrative Rules**, printed in each Bulletin.*

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

*The state of Idaho administrative rulemaking process, governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, comprises five distinct activities: negotiated, proposed, temporary, pending and final rulemaking. Not all rulemakings involve all five. At a minimum, a rulemaking includes proposed, pending and final rulemaking. Many rules are adopted as temporary rules when they meet the required statutory criteria and agencies often engage in negotiated rulemaking at the beginning of the process to facilitate consensus building in controversial or complex rulemakings. In the majority of cases, the process begins with proposed rulemaking and ends with the final rulemaking. The following is a brief explanation of each type of administrative rule.*

### **NEGOTIATED RULEMAKING**

*Negotiated rulemaking is a process in which all interested parties and the agency seek consensus on the content of a rule. Agencies are encouraged, and in some cases required, to engage in this rulemaking activity whenever it is feasible to do so. Publication of a "Notice of Intent to Promulgate" a rule in the Administrative Bulletin by the agency is optional. This process should result in the formulation of a proposed and/or temporary rule.*

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### **PROPOSED RULEMAKING**

A proposed rulemaking is an action by an agency wherein the agency is proposing to amend or repeal an existing rule or to adopt a new rule. Prior to the adoption, amendment, or repeal of a rule, the agency must publish a "Notice of Proposed Rulemaking" in the Bulletin. This notice must include:

- a) the specific statutory authority (from Idaho Code) 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 as provided in Section 67-5222, Idaho Code; 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. An agency may vacate a proposed rulemaking if it decides not to proceed further with the promulgation process.

### **TEMPORARY RULEMAKING**

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

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

If a rulemaking meets 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. However, a temporary rule that imposes a fee or charge may be adopted only if the Governor finds that the fee or charge is necessary to avoid an immediate danger which justifies the imposition of the fee or charge.

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

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

An agency may, at any time, rescind a temporary rule that has been adopted and is in effect. If the temporary rule is being replaced by a new temporary rule or if it has been published concurrently with a proposed rulemaking that is being vacated, the agency, in most instances, should rescind the temporary rule.

### **PENDING RULEMAKING**

*A pending rule is a rule that has been adopted by an agency under regular rulemaking procedures and remains subject to legislative review before it become 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 Rulemaking". This includes:*

- a) a statement giving 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;*
- 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 change is a logical outgrowth of the proposed rule, and the original notice was written so as to assure that members of the public were reasonably notified of the subject. It is not always necessary to republish all the text of the pending rule. 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 Rulemaking" is published.*

### **FINAL RULEMAKING**

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

*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 an agency has violated the legislative intent of the statute under which the rule was made, a concurrent resolution may be adopted to reject the rulemaking or any part thereof. A "Notice of Final Rule" must be published in the 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 that 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, Twin Falls, Lewiston and East Bonner County Library.*

## **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 83720-00306, telephone (208) 332-1820.

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

*The Idaho 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 Rule Making Dockets*, are specific portions of the Bulletin and Administrative Code produced on demand.

**Internet Access** - The Administrative Code and Administrative Bulletin are available on the Internet at the following address: <http://adm.idaho.gov/adminrules/>

## **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 38.07.01.200.02.c.ii.**

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

"IDAPA 38" refers to the Idaho Department of Administration

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

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

"200." refers to Major Section 200, "Content of the Invitation to Bid"

"02." refers to Subsection 200.02.

"c." refers to Subsection 200.02.c.

"ii." refers to Subsection 200.02.c.ii.

## DOCKET NUMBERING SYSTEM

Internally, the Bulletin is organized sequentially using a rule docketing system. All rulemaking actions (documents) are assigned a "DOCKET NUMBER." The "Docket Number" is a series of numbers separated by a hyphen "-", (38-0501-0501). 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. 38-0501-0501"

"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).

"0501" denotes the year and sequential order of the docket received during the year; in this case the first rule-making action in calendar year 2005.

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 of a rule 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."

The citation may also include the IDAPA, Title, or Chapter number, 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 rule.

"01" denotes the Chapter number of the rule.

: "201" references the main Section number of the rule that the citation refers to.

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 2006**

<b>Vol. No.</b>	<b>Monthly Issue of Bulletin</b>	<b>Closing Date for Agency Filing</b>	<b>Publication Date</b>	<b>21-day Comment Period End Date</b>
06-1	January 2006	<b>*November 19, 2005</b>	January 4, 2006	January 25, 2006
06-2	February 2006	January 5, 2006	February 1, 2006	February 22, 2006
06-3	March 2006	February 3, 2006	March 1, 2006	March 22, 2006
06-4	April 2006	March 3, 2006	April 5, 2006	April 26, 2006
06-5	May 2006	March 31, 2006	May 3, 2006	May 24, 2006
06-6	June 2006	May 5, 2006	June 7, 2006	June 28, 2006
06-7	July 2006	June 2, 2006	July 5, 2006	July 26, 2006
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06-10	October 2006	<b>**August 23, 2006</b>	October 4, 2006	October 25, 2006
06-11	November 2006	October 6, 2006	November 1, 2006	November 22, 2006
06-12	December 2006	November 3, 2006	December 6, 2006	December 27, 2006

**BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2007**

<b>Vol. No.</b>	<b>Monthly Issue of Bulletin</b>	<b>Closing Date for Agency Filing</b>	<b>Publication Date</b>	<b>21-day Comment Period End Date</b>
07-1	January 2007	<b>*November 15, 2006</b>	January 3, 2007	January 24, 2007
07-2	February 2007	January 5, 2007	February 7, 2007	February 28, 2007
07-3	March 2007	February 2, 2007	March 7, 2007	March 28, 2007
07-4	April 2007	March 2, 2007	April 4, 2007	April 26, 2007
07-5	May 2007	April 6, 2007	May 2, 2007	May 24, 2007
07-6	June 2007	May 4, 2007	June 6, 2007	June 28, 2007
07-7	July 2007	June 1, 2007	July 4, 2007	July 26, 2007
07-8	August 2007	June 29, 2007	August 1, 2007	August 23, 2007
07-9	September 2007	August 3, 2007	September 5, 2007	September 27, 2007
07-10	October 2007	<b>**August 22, 2007</b>	October 3, 2007	October 25, 2007
07-11	November 2007	October 5, 2007	November 7, 2007	November 22, 2007
07-12	December 2007	November 2, 2007	December 5, 2007	December 27, 2006

***\*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 44</b>	<b>Administrative Rules Coordinator, Office of the</b>	<b>VOULME 8</b>
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<b>IDAPA 40</b>	<b>Arts, Idaho Commission on the</b>	<b>VOLUME 8</b>
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<b>IDAPA 04</b>	<b>Attorney General, Office of the</b>	<b>VOLUME 1</b>
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<b>IDAPA 16</b>	<b>Health and Welfare, Department of</b>	<b>VOLUMES 3, 4, &amp; 5</b>
<b>IDAPA 45</b>	<b>Human Rights Commission</b>	<b>VOLUME 8</b>
<b>IDAPA 30</b>	<b>Idaho State Library</b>	<b>VOLUME 7</b>
<b>IDAPA 11</b>	<b>Idaho State Police</b>	<b>VOLUME 2 &amp; 3</b>
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**THE OFFICE OF THE GOVERNOR**

**EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE**

**EXECUTIVE ORDER NO. 2005-24**

**GIVING CREDIT TO MCKINLEY HELM FOR THE WORDS OF THE IDAHO STATE SONG  
USED IN ONE OF THE PROPOSED IDAHO STATE QUARTER DESIGNS**

---

*WHEREAS, title 67, section 4503 of the Idaho Code requires credit be given to McKinley Helm for the composition of the chorus of the Idaho State Song "Here We Have Idaho;" and*

*WHEREAS, one of the proposed designs for the Idaho State Quarter that was submitted to the U.S. Mint includes a portion of the chorus of the Idaho State Song "Here We Have Idaho;" and*

*WHEREAS, the use of any part of this chorus in any of the proposed designs for the Idaho State Quarter requires that credit for those words be given to McKinley Helm.*

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

*In compliance with title 67, section 4503 of the Idaho Code credit is hereby given to McKinley Helm for the words of the chorus of the Idaho State Song "Here We Have Idaho," as they are depicted by the U.S. Mint for the Idaho State Quarter.*



*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 1st day of November in the year of our Lord two thousand and five, and of the Independence of the United States of America the two hundred thirtieth and of the Statehood of Idaho the one hundred sixteenth.*

---

**DIRK KEMPTHORNE  
GOVERNOR**

---

**BEN YSURSA  
SECRETARY OF STATE**

**THE OFFICE OF THE GOVERNOR**

**EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE**

**EXECUTIVE ORDER NO. 2006-01**

**AUTHORIZING THE ESTABLISHMENT OF THE EAGLE ISLAND  
STATE PARK PLANNING COMMITTEE**

---

*WHEREAS, The Treasure Valley is experiencing rapid population growth; and*

*WHEREAS, an increasing demand for outdoor recreation opportunities comes with that growth; and*

*WHEREAS, Eagle Island State Park is uniquely situated near the population center of the Treasure Valley;  
and*

*WHEREAS, an opportunity exists to develop Eagle Island State Park to meet a variety of Treasure Valley  
needs;*

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

- 1. The Eagle Island State Park Planning Committee is established. The Committee shall:
  - a. Review the existing Park Master Plan and formulate the future role of Eagle Island State Park in fulfilling projected needs for outdoor recreation in the Treasure Valley; and*
  - b. Develop and implement a process for measuring public needs related to the park; and*
  - c. Research strategies employed by park and recreation agencies for parks of similar size in urban settings; and*
  - d. Develop and deliver recommendations as to the future role of Eagle Island State Park to the Governor and to the Idaho Park and Recreation Board by July 1, 2006.**
- 2. The Governor shall appoint the Committee Chair.*
- 3. The members of the Committee shall be appointed by and serve at the pleasure of the Governor through calendar year 2006.*
- 4. Members shall consist of at least two State Senators and two State Representatives from the Treasure Valley, representatives of nearby local governments, representatives of affected state agencies, and members of the general public.*
- 5. The Committee may recommend additional members to the Governor as they deem appropriate and may establish subcommittees consistent with the needs of the Committee.*
- 6. The Committee shall meet at least six (6) times during calendar year 2006 as determined by the Chair.*
- 7. The Committee members shall serve without compensation or reimbursement for expenses, including related travel and per diem to attend Committee meetings. Expenses related to fact-finding activities approved by the Chair and agency Director shall be reimbursed by the Idaho Department of Parks and Recreation according to State travel and per diem rates.*
- 8. The Committee shall receive administrative and technical staff support from the Idaho Department of Parks and Recreation.*



*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 16th day of January in the year of our Lord two thousand and six, and of the Independence of the United States of America the two hundred thirtieth and of the Statehood of Idaho the one hundred sixteenth.*

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*DIRK KEMPTHORNE*  
*GOVERNOR*

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*BEN YSURSA*  
*SECRETARY OF STATE*

**THE OFFICE OF THE GOVERNOR**

**EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE**

**EXECUTIVE ORDER NO. 2006-02**

**AUTHORIZING THE ESTABLISHMENT OF THE EASTERN IDAHO  
STATE PARK SEARCH COMMITTEE**

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*WHEREAS, Eastern Idaho is experiencing rapid population growth; and*

*WHEREAS, an increasing demand for outdoor recreation opportunities comes with that growth; and*

*WHEREAS, state park development has not kept pace with growing needs in Eastern Idaho; and*

*WHEREAS, an opportunity exists to develop a new state park in Eastern Idaho;*

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

1. *The Eastern Idaho State Park Search Committee is established. The Committee shall:
  - a. *Review existing studies and plans that may impact a decision regarding site selection of an Eastern Idaho state park; and*
  - b. *Develop and implement a process for measuring public needs and desires related to the park; and*
  - c. *Develop and deliver recommendations as to the future location of an Eastern Idaho state park to the Governor and to the Idaho Park and Recreation Board by July 1, 2006.**
2. *The Governor shall appoint the Committee Chair.*
3. *The members of the Committee shall be appointed by and serve at the pleasure of the Governor through calendar year 2006.*
4. *Members shall consist of at least two State Senators and two State Representatives from Eastern Idaho, representatives of nearby local governments, representatives of affected state agencies, Region Five and Region Six Idaho Park Board members, and members of the general public.*
5. *The Committee may recommend additional members to the Governor as they deem appropriate and may establish subcommittees consistent with the needs of the Committee.*
6. *The Committee shall meet at least six (6) times during calendar year 2006 as determined by the Chair.*
7. *The Committee members shall serve without compensation or reimbursement for expenses, including related travel and per diem to attend Committee meetings.*
8. *The Committee shall receive administrative and technical staff support from the Idaho Department of Parks and Recreation.*



*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 16th day of January in the year of our Lord two thousand and six, and of the independence of the United States of America the two hundred thirtieth and of the Statehood of Idaho the one hundred sixteenth.*

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**DIRK KEMPTHORNE  
GOVERNOR**

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**BEN YSURSA  
SECRETARY OF STATE**

**THE OFFICE OF THE GOVERNOR**

**EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE**

**EXECUTIVE ORDER NO. 2006-03**

**CONTINUING THE IDAHO CRIMINAL JUSTICE GRANT REVIEW BOARD FOR AWARDING FEDERAL GRANT FUNDS REPEALING AND REPLACING EXECUTIVE ORDER 2005-05**

*WHEREAS, combating and protecting citizens from crime is of vital concern to government; and*

*WHEREAS, it is in the best interests of the citizens of the State of Idaho that government promote efficiency and effectiveness of the criminal justice system and, where possible, create partnerships among criminal justice professionals to achieve this effectiveness and efficiency; and*

*WHEREAS, under the provisions of the Omnibus Crime Control and Safe Streets Act of 1968 and the Crime Control Act of 2005, each state is encouraged to develop and implement a competitive mechanism for award of certain federal grant funds.*

*NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, do hereby establish the Idaho Criminal Justice Grant Review Board and charge this body with the responsibility to disburse such grant funding as may come within its purview with the overall mission of reducing crime in Idaho.*

*The Idaho Criminal Justice Grant Review Board shall consist of seventeen (17) members comprised of the following representatives (or their designees) who shall serve one-year terms at the pleasure of the Governor:*

*The Attorney General of the State of Idaho;  
The Chief Justice of the Idaho Supreme Court;  
The Director of the Idaho Department of Correction;  
The Director of the Idaho State Police;  
The Director of the Idaho Department of Juvenile Corrections;  
Two (2) Chiefs of Police;  
Two (2) Sheriffs;  
The State Appellate Public Defender;  
Two (2) Prosecuting Attorneys;  
One (1) representative of the Idaho Council on Domestic Violence;  
One (1) representative of the private security organizations;  
One (1) representative of the juvenile justice system;  
Two (2) citizens at large.*

*The Governor shall appoint the Chair of the Criminal Justice Grant Review Board.*

*This Executive Order shall 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 10th day of January in the year of our Lord two thousand and six, and of the Independence of the United States of America the two hundred thirtieth and of the Statehood of Idaho the one hundred sixteenth.*

\_\_\_\_\_  
*DIRK KEMPTHORNE  
GOVERNOR*

\_\_\_\_\_  
*BEN YSURSA  
SECRETARY OF STATE*

**THE OFFICE OF THE GOVERNOR**

**EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE**

**EXECUTIVE ORDER NO. 2006-04**

**DESIGNATION OF THE STATE ENTITY RESPONSIBLE FOR DEVELOPING AND DELIVERING  
COMPREHENSIVE COMPUTER-BASED CAREER INFORMATION REPEALING  
AND REPLACING EXECUTIVE ORDER 2002-02**

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WHEREAS, Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998, P.L. 105-800 mandates that the Idaho Division of Professional- Technical Education and the Governor of the State of Idaho shall jointly designate an entity in the state to:

1. Provide support for career guidance and academic counseling programs designed to promote improved career and educational decision-making by individuals, especially in areas of career information delivery;
2. Make information and planning resources available to students, parents, teachers, and administrators that relate educational preparation to career goals;
3. Provide information to assist students and parents with career exploration, educational opportunities, and educational financing;
4. Improve coordination and communication to ensure non-duplication of efforts and shared information;
5. Provide a means for customers to provide comments and feedback on products and services to better meet customer requirements; and

WHEREAS, the Idaho State Occupational Information Coordinating Committee has provided oversight and management of the Idaho Career Information System in delivering current and accurate occupational, educational and related career information to the residents of Idaho; and

WHEREAS, career information is critical in helping people make successful career decisions, understand the link between educational preparation and work, explore education and career alternatives, and successfully seek work.

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of the State of Idaho, do hereby change the name of the Idaho State Occupational Information Coordinating Committee to the Idaho Career Information Board and designate this entity consisting of representatives from the Idaho Division of Professional-Technical Education, the Idaho Department of Commerce and Labor, the State Department of Education, the Office of the State Board of Education, the Idaho Division of Vocational Rehabilitation, and the Office of the Governor as responsible for oversight and management of Idaho's comprehensive, computer-based system of career information known as the Idaho Career Information System.



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 13th day of January in the year of our Lord two thousand and six, and of the Independence of the United States of America the two hundred thirtieth and of the Statehood of Idaho the one hundred sixteenth.

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DIRK KEMPTHORNE  
GOVERNOR

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BEN YSURSA  
SECRETARY OF STATE

**THE OFFICE OF THE GOVERNOR**

**EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE**

**EXECUTIVE ORDER NO. 2006-05**

**CONTINUING THE IDAHO GEOSPATIAL COMMITTEE**

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*WHEREAS, government agencies and private industries have developed powerful computer systems designed to process and analyze map and other information collectively called Geospatial Information; and*

*WHEREAS, these systems, referred to as Geospatial Technology, significantly increase efficiency to the State for conducting land, water, demographic, social and other natural resource management activities, and are linked as component parts of Idaho's information management activities; and*

*WHEREAS, Geospatial Products produced and maintained by organizations provide a valuable information infrastructure for public and private entities; and*

*WHEREAS, Geospatial Technology assists state, federal and local governments in carrying out their mandated responsibilities more efficiently, with better services to taxpayers as a valuable tool for scientific investigation, resource management and development planning; and*

*WHEREAS, it is important to provide channels of communication and cooperation among agencies of the State of Idaho, federal agencies, local and tribal governments, private organizations, education institutions and the citizens of Idaho; and*

*WHEREAS, there is a need to facilitate and promote the cooperation and coordination of programs, policies, products, and resources using Geospatial Technology to maximize opportunities and minimize duplication of effort; and*

*WHEREAS, there is a need to develop and implement policies, guidelines, and standards for producing and sharing Geospatial Information; and*

*WHEREAS, there is a need to support the ongoing development of a clearinghouse in order to foster the sharing of Geospatial Information; and*

*WHEREAS, there is a need to provide education, training, and technical support for users of Geospatial Information to support consistency and efficiency; and*

*WHEREAS, the Idaho Legislature annually appropriates a significant amount of state funds for agency Geospatial Technology activities that benefit from coordination; and*

*WHEREAS, Geospatial Technology activities and implementation have a long-term economic benefit to the citizens of Idaho;*

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

- 1. There is continued the Idaho Geospatial Committee.*
- 2. The purpose of the Idaho Geospatial Committee is to provide policy level direction and promote efficient and effective use of resources for matters related to geographic information. To that end it shall:*
  - a. Promote cooperation among state, federal, tribal and local agencies, universities and the private sector in addressing geographic data and information needs and services in Idaho;*
  - b. Review priorities for statewide geographic information needs and assist in the development of projects, plans, policies, standards, priorities and guidelines for geographic information;*

- c. *Facilitate cooperative and contract arrangements to develop and maintain high-priority geospatial databases and applications programs;*
  - d. *Promote state geospatial information clearinghouse activities as a vehicle for sharing information on geospatial technology, programs, policies and resources to maximize opportunities and minimize duplication of effort, and to facilitate the standardization, documentation, distribution and exchange of geographic information; and,*
  - e. *Provide recommendations to ITRMC, the Governor and the Legislature, when appropriate, concerning issues related to geographic information in Idaho.*
3. *The Idaho Geospatial Committee shall receive administrative staff support from the Information Technology Resource Management Council staff.*
  4. *The Idaho Geospatial Committee will meet not less than twice a year and all meetings are open to all interested parties.*
  5. *The Idaho Geospatial Committee will appoint subcommittees consistent with the needs of the Committee to address issues including, but not limited to: the sharing of geospatial information through a geospatial clearinghouse; technical support and education issues related to geospatial technologies in Idaho; and outreach and liaison with the Federal Geographic Data Committee and geospatial coordinating committees in neighboring states.*
  6. *The Idaho Geospatial Committee shall prepare and submit a report describing the Committee's activities and achievements of the previous year to the Information Technology Resource Management Council by December 30 of each year. Additionally, the report shall include bylaws for this committee, address the need to provide education, training, and technical support for users of geospatial information and make recommendations.*
  7. *The Idaho Geospatial Committee represents the Idaho geospatial user community and shall be composed of sixteen (16) representative members with knowledge of and interest in Geospatial Information and Technologies including representatives of: three (3) state agencies, one of whom will serve as chair (appointed by the Chairman of ITRMC), a representative from the state clearinghouse, and the State GIS Coordinator. Other members may include: the Idaho Federal Framework Coordinator, one (1) representative of the United States Department of Agriculture, one (1) representative of the United States Department of Interior, one (1) Tribal Government representative, one (1) representative of the State University System, two (2) representatives of the public utilities or private businesses, three (3) representatives from county and municipal governments, and (1) representative of the public at large. The Idaho Geospatial Committee's membership shall be selected by the groups they represent and approved by the Information Technology Resource Management Council.*

*This Executive Order shall 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 25th day of January in the year of our Lord two thousand and six, and of the independence of the United States of America the two hundred thirtieth and of the Statehood of Idaho the one hundred sixteenth.*

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**DIRK KEMPTHORNE**  
**GOVERNOR**

\_\_\_\_\_  
**BEN YSURSA**  
**SECRETARY OF STATE**

**THE OFFICE OF THE GOVERNOR**

**EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE**

**EXECUTIVE ORDER NO. 2006-06**

**CONTINUING THE GOVERNOR'S MOTOR CARRIER ADVISORY COMMITTEE  
REPEALING AND REPLACING EXECUTIVE ORDER NO. 2005-16**

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*WHEREAS, the people of Idaho are dependent upon the motor carrier industry to deliver raw materials, manufactured goods, agricultural products and other necessities; and*

*WHEREAS, the motor carrier industry, which employs thousands of Idahoans, requires user participation in developing the rules and regulations to guide the industry.*

*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 the continuation of the Governor's Motor Carrier Advisory Committee as follows:*

- 1. The purpose of the committee shall be to advise the Governor and state agencies on laws, rules, regulations, policies, and procedures affecting motor carrier operations in the State of Idaho. The Committee shall meet at least twice each year. Additional meetings shall be at the discretion of the Chairman.*
- 2. The Committee shall consist of a Chairman appointed by the Governor, the Chair of the Idaho Trucking Association, and thirteen members appointed by the Governor that represent various segments of the Idaho trucking industry, including but not limited to production agriculture, concrete/aggregate, contractors, heavy haul, interstate/international, logging, long-haul, manufactured housing, private carriers, tankers, truck/trailer manufacturing, short haul, and wood products. Each Transportation District within the state shall be represented by at least one and no more than three industry segment appointees. No industry segment shall have more than one representative on the committee. Each industry segment member must be actively involved in the trucking industry either through ownership or employment.*
- 3. The Governor shall appoint the members to the Committee. Appointments, except for the Chairman and the Chair of the Idaho Trucking Association, shall be for staggered three-year terms, except initial appointments to the board shall be apportioned in the following manner:*
  - a. 4 members shall serve for a period of one year;*
  - b. 4 members shall serve for a period of two years; and*
  - c. 5 members shall serve for a period of three years.*

*All appointments, except for the Chairman and the Chair of the Idaho Trucking Association, shall expire on January 1, after their respective one, two, or three-year appointment. The Chairman serves at the pleasure of the Governor.*

- 4. Committee members shall receive no salary for their services. The Idaho Transportation Department shall, however, reimburse Committee members for expenses incurred in attending Committee meetings.*
- 5. A representative from each of the following state agencies shall provide support to the Committee: The Idaho Transportation Department, the Idaho State Police, and the Tax Commission. The Idaho Transportation Department shall be the lead agency responsible for providing administrative support.*
- 6. The Committee shall present all formal recommendations to the Governor and participating agencies. It shall also present to the Governor each December a report of the activities of the Committee during that*

year.

7. *Bylaws of the Committee shall be drafted and adopted by the Membership within six months of the first meeting.*

*This Executive Order repeals and replaces Executive Order 2005-16.*



*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 1st day of February in the year of our Lord two thousand and six, and of the Independence of the United States of America the two hundred thirtieth and of the Statehood of Idaho the one hundred sixteenth.*

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*DIRK KEMPTHORNE*  
*GOVERNOR*

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*BEN YSURSA*  
*SECRETARY OF STATE*

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

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

**DOCKET NO. 16-0305-0601**

**NOTICE OF RULEMAKING**

**PENDING RULE AND AMENDMENT TO TEMPORARY RULE**

**EFFECTIVE DATE:** The effective date of the amendment to the temporary rule is March 1, 2006. This pending rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224 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 Sections 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 amending the 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.

This rule change helps those Medicaid recipients who are also on Medicare by providing an increase in the basic allowance that will provide additional money for the Medicaid recipient to pay for out of pocket medical expenses under the new Medicare Prescription Drug Plan. Originally this rulemaking allowed for an increase of \$20 by increasing the individual's basic allowance from \$67 a month to \$87 a month. This amount is being amended by changing the increase from \$20 to \$10. The basic allowance will be increased from \$67 to \$77. This amendment to the rule is being made based on a comment to the rule made by the Department and is a result of a compromise reached with stakeholders during the legislative session.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the January 4, 2006 Idaho Administrative Bulletin, Vol. 06-1, pages 85 through 87.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Peggy Cook at (208) 334-5969.

DATED this 27th day of January, 2006.

Sherri Kovach - Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
kovachs@idhw.state.id.us e-mail

**DOCKET NO. 16-0305-0601 - PENDING RULE**

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 06-1, January 4, 2006, pages 85 through 87.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

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**THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 16-0305-0601**

***Subsection 501.04***

**501. BASIC ALLOWANCE.**

Each participant receives a basic allowance unless he lives in a nursing facility. The basic allowance for each living arrangement is listed in Subsections 501.01 through 501.05. The Semi-Independent Group Residential Facility, Room and Board, Residential and Assisted Living Facility and Certified Family Home basic allowances are those in effect January 1, 2001. They do not change with the annual cost-of-living increase in the federal SSI benefit amount.

(5-3-03)

**04. Room and Board Home.** A participant living in a room and board home, as defined in Section 512, is budgeted ~~eighty~~ seventy-seven dollars (\$~~87~~77) monthly as a basic allowance. ~~(1-1-06)T(3-1-06)T~~

***Section 513, No Changes to Subsections 513.01 and 513.02***

**513. LICENSED RESIDENTIAL AND ASSISTED LIVING FACILITY AND CERTIFIED FAMILY HOME ALLOWANCES.**

A participant living in a Residential and Assisted Living Facility (RALF), (in accordance with IDAPA 16.03.22, "Rules Governing Licensed Residential and Assisted Living Facilities in Idaho") or Certified Family Home (CFH), (in accordance with IDAPA 16.03.19, "Rules Governing Certified Family Homes") with State Plan Personal Care Services, is budgeted a basic allowance of ~~eighty~~ seventy-seven dollars (\$~~87~~77) monthly. A participant is also budgeted a monthly allowance for care based on his level of care. If the participant gets a lower level of RALF or CFH care than his assessed level, his allowance is for the lower level of care. These allowances are used to determine eligibility for Medicaid. These allowances are only used for AABD cash when the participant is entitled to the DD Waiver in accordance with Section 789, "Developmentally Disabled (DD) Waiver," of this rule. If the participant does not require the RALF or CFH level of care, his eligibility and allowances are based on the Room and Board rate in Section 512 of these rules. ~~(1-1-06)T(3-1-06)T~~

**IDAPA 17 - INDUSTRIAL COMMISSION**

**17.02.08 - MISCELLANEOUS PROVISIONS**

**DOCKET NO. 17-0208-0601**

**NOTICE OF RULEMAKING - TEMPORARY RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is April 1, 2006.

**AUTHORITY:** In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section(s) 72-508, 72-720, 72-721, 72-722, and 72-723, Idaho Code, and Section 72-803 of the Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule: Proposes using the Resource-Based Relative Value Scale (RBRVS) and the Relative Value Unit (RVU) assigned for all medical services with a Physicians' Current Procedural Terminology (CPT) code. A Conversion Factor for various categories of CPT coded services is proposed. Unnecessary language is proposed to be deleted from the rule.

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

This temporary rule is needed to comply with the statutory directive to have conversion factors set prior to the effective date of April 1, 2006.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rule, contact Thomas E. Limbaugh, Commissioner, 208-334-6000.

DATED this 21st day of February, 2006.

Thomas E. Limbaugh, Commissioner  
317 Main Street  
P.O. Box 83720  
Boise, ID 83720-0041

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0208-0601**

**031. ACCEPTABLE CHARGES FOR MEDICAL SERVICES UNDER THE IDAHO WORKERS' COMPENSATION LAW.**

Pursuant to Section 72-508 and Section 72-803, Idaho Code, the Industrial Commission (hereinafter "the Commission") hereby ~~substitutes~~ adopts the following ~~for the January 28, 1975 amendment to the "Rules and Regulations Governing Charges for Medical Services Provided under the Idaho Workers' Compensation Law," dated May 2, 1973~~ rule for determining acceptable charges for medical services provided under the Idaho Workers' Compensation Law: (6-1-92)(4-1-06)T

~~01. Acceptable Charges Under the Idaho Workers' Compensation Law. Payors shall pay a Provider's reasonable charge for Medical Services furnished to industrially injured patients.~~ (6-1-92)

**021. Definitions.** Words and terms used in this rule are defined in the subsections which follow. (6-1-92)

**a.** “Provider” means any person, firm, corporation, partnership, association, agency, institution or other legal entity providing any kind of medical services related to the treatment of an industrially injured patient which are compensable under Idaho’s Workers’ Compensation Law. ~~(6-1-92)~~(4-1-06)T

**b.** “Payor” means the legal entity responsible for paying medical benefits under Idaho’s Workers’ Compensation Law. (6-1-92)

**c.** “Medical Services” means medical, surgical, dental or other attendance or treatment, nurse and hospital service, medicines, apparatus, appliances, prostheses, and related services, facilities, equipment and supplies. ~~(7-1-95)~~(4-1-06)T

**d.** “Reasonable,” ~~except as provided in Subsections 031.02.g. and 031.02.h.,~~ means a charge does not exceed the Provider’s “usual” charge and does not exceed the “customary” charge, as defined below. ~~(7-1-95)~~(4-1-06)T

**e.** “Usual” means the most frequent charge made by an individual Provider for a given medical service to non-industrially injured patients. ~~(7-1-95)~~(4-1-06)T

**f.** “Customary” means a charge which shall have an upper limit no higher than the 90th percentile, as determined by the Commission, of usual charges made by Idaho Providers for a given medical service. ~~(7-1-95)~~(4-1-06)T

~~**g.** *Provided, however, that for medical services which are not represented by CPT codes, reasonableness of charges shall be determined based on all relevant evidence available, including industry standards, invoices and catalog prices.* (7-1-95)~~

~~**h.** *Provided, further, that where a Medical Service is one that is exceptional, unusual, variable, rarely provided, or so new that a determination cannot be made as to whether the charge for the Medical Service meets the criteria of Subsections 031.02.d. through 031.02.f. above, or where the Industrial Commission staff determines that its database is statistically unreliable, reasonableness of charges shall be determined based on all relevant evidence available.* (7-1-95)~~

**02. Acceptable Charge.** Payors shall pay providers the acceptable charge for medical services calculated in accordance with this rule or as billed by the provider, whichever is less. (4-1-06)T

**a.** Adoption of Standard. The Commission hereby adopts the Resource-Based Relative Value Scale (RBRVS), published by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services, as amended, as the standard to be used for determining the acceptable charge for medical services provided under the Idaho Workers’ Compensation Law. (4-1-06)T

**b.** Conversion Factors. The following conversion factors shall be applied to the Relative Value Unit (RVU) found in the latest RBRVS, as amended, that was published before December 31 of the previous calendar year for a medical service identified by a code assigned to that service in the latest edition of the Physicians’ Current Procedural Terminology (CPT), published by the American Medical Association, as amended:

<b>CPT CODE:</b>	<b>DESCRIPTION:</b>	<b>CONVERSION FACTOR:</b>
00000 to 09999	Anesthesiology	\$58.19
<u>10000 to 69999</u>	<u>Surgery:</u>	
10000 to 19999	Integumentary System	\$ 67.00
20000 to 29999	Musculoskeletal System	\$ 95.00

<b>CPT CODE:</b>	<b>DESCRIPTION:</b>	<b>CONVERSION FACTOR:</b>
<u>30000 to 39999</u>	<u>Respiratory/Cardiovascular</u>	<u>\$ 88.00</u>
<u>40000 to 49999</u>	<u>Digestive System</u>	<u>\$ 88.00</u>
<u>50000 to 59999</u>	<u>Urinary/Genital</u>	<u>\$ 88.00</u>
<u>60000 to 69999</u>	<u>Endocrine/Nervous/Eye</u>	<u>\$ 120.00</u>
<u>70000 to 79999</u>	<u>Radiology &amp; Nuclear Medicine</u>	<u>\$ 95.00</u>
<u>80000 to 89999</u>	<u>Pathology</u>	<u>No RVUs</u>
<u>90000 to 96900</u>	<u>Medicine</u>	<u>\$ 70.00</u>
<u>97000 to 97039</u>	<u>Medicine</u>	<u>\$ 50.00</u>
<u>97110</u>	<u>Medicine</u>	<u>\$ 45.00</u>
<u>97112 to 97775</u>	<u>Medicine</u>	<u>\$ 50.00</u>
<u>97802 to 98943</u>	<u>Medicine</u>	<u>\$ 49.50</u>
<u>99000 to 99499</u>	<u>Medicine</u>	<u>\$ 65.00</u>

(4-1-06)T

**c.** The Conversion Factor for the Anesthesiology CPT Codes shall be multiplied by the Anesthesia Base Units assigned to that CPT Code by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services as of December 31 of the previous calendar year, plus the allowable time units reported for the procedure. Time units are computed by dividing reported time by fifteen (15) minutes. Time units will not be used for CPT Codes 01995 and 01996. (4-1-06)T

**d.** Adjustment of Conversion Factors. The conversion factors set out in this rule shall be adjusted prior to the beginning of each state fiscal year (FY), starting with FY 2008. The Commission shall determine the adjustment, which shall equal the percent change in the all item consumer price index for the west urban area, as published by the U.S. Department of Labor, for the twelve-month (12) period ending with December of the prior year. (4-1-06)T

**e.** Services Without CPT Code, RVU or Conversion Factor. The acceptable charge for medical services that do not have a CPT code, a currently assigned RVU or a conversion factor will be the reasonable charge for that service, based upon the usual and customary charge and other relevant factors, as determined by the Commission. Where a service with a CPT Code, RVU and conversion factor is, nonetheless, claimed to be exceptional or unusual, the Commission may, notwithstanding the conversion factor for that service set out in Subsection 031.02.b., determine the reasonable charge for that service, based on all relevant factors in accordance with the procedures set out in Subsection 032.11. (4-1-06)T

**032. BILLING AND PAYMENT REQUIREMENTS FOR MEDICAL SERVICES AND PROCEDURES PRELIMINARY TO DISPUTE RESOLUTION.**

**01. Authority and Definitions.** Pursuant to Section 72-508 and Section 72-803, Idaho Code, the Industrial Commission hereby promulgates this rule augmenting IDAPA 17.02.08.031 ~~(formerly 17.01.03.803.A, which became effective June 1, 1992)~~. The definitions set forth in IDAPA 17.02.08.031 are incorporated by reference ~~(1-1-93)~~(4-1-06)T

**02. Time Periods.** None of the periods herein shall begin to run before the Notice of Injury/Claim for Benefits has been filed with the Employer as required by law. (1-1-93)

**03. Provider to Furnish Information.** A Provider, when submitting a bill to a Payor, shall inform the Payor of the nature and extent of Medical Services furnished and for which the bill is submitted. This information

shall include, but is not limited to, the patient's name, the employer's name, the date the Medical Service was provided, the diagnosis, if any, and the amount of the charge or charges. Failure to submit a bill complying with Subsection 032.03 to the Payor within one hundred twenty (120) days of the date of service will result in the ineligibility of the Provider to utilize the dispute resolution procedures of the Commission set out in Subsection 032.11 for that service. ~~(1-1-93)(4-1-06)T~~

**a.** CPT and ICD Coding. A Provider's bill shall, whenever possible, describe the Medical Service provided, using the American Medical Association's appropriate Current Procedural Terminology (CPT) coding, including modifiers, for the year in which the service was performed and using current International Classification of Diseases (ICD) diagnostic coding, as well. (7-1-95)

**b.** Contact Person. The bill shall also contain the name, address and telephone number of the individual the Payor may contact in the event the Payor seeks additional information regarding the Provider's bill. (1-1-93)

**c.** Report to Accompany Bill. If required by the Payor, the bill shall be accompanied by a written report as defined by IDAPA 17.02.04.322.01.f. Where a bill is not accompanied by such Report, the periods expressed in Subsections 032.04 and 032.06, below, shall not begin to run until the Payor receives the Report. (7-1-95)

**04. Prompt Payment.** If the Payor acknowledges liability for the claim and does not send a Preliminary Objection to, or Request for Clarification of, any charge, as provided in Subsection 032.06, below, the Payor shall pay the charge within thirty (30) calendar days of receipt of the bill. ~~The Commission will strictly apply all time limits and deadlines established by this rule. However, a reasonable good faith effort to comply with the other provisions of this rule will generally be sufficient to protect a party's rights hereunder.~~ ~~(1-1-93)(4-1-06)T~~

**05. Partial Payment.** If the Payor acknowledges liability for the claim and, pursuant to Subsection 032.06 below, sends a Preliminary Objection, a Request for Clarification, or both, as to only part of a Provider's bill, the Payor must pay the charge or charges, or portion thereof, as to which no Preliminary Objection and/or Request for Clarification has been made, within thirty (30) calendar days of receipt of the bill. ~~The Commission will strictly apply all time limits and deadlines established by this rule. However, a reasonable good faith effort to comply with the other provisions of this rule will generally be sufficient to protect a party's rights hereunder.~~ ~~(7-1-95)(4-1-06)T~~

**06. Preliminary Objections and Requests for Clarification.** (1-1-93)

**a.** Preliminary Objection. Whenever a Payor objects to all or any part of a Provider's bill on the ground that such bill contains a charge or charges that do not comport with the applicable administrative rule, the Payor shall send a written Preliminary Objection to the Provider within thirty (30) calendar days of the Payor's receipt of the bill explaining the basis for each of the Payor's objections. (1-1-93)

**b.** Request for Clarification. Where the Payor requires additional information, the Payor shall send a written Request for Clarification to the Provider within thirty (30) calendar days of the Payor's receipt of the bill, and shall specifically describe the information sought. (1-1-93)

**c.** Provider Contact. Each Preliminary Objection and Request for Clarification shall contain the name, address and phone number of the individual located within the state of Idaho that the Provider may contact regarding the Preliminary Objection or Request for Clarification. ~~(1-1-93)(4-1-06)T~~

**d.** Failure of Payor to Object or Request or Provide Contact. Where a Payor does not send a Preliminary Objection to a charge set forth in a bill and/or a Request for Clarification within thirty (30) calendar days of receipt of the bill, or provide an in-state contact in accord with Subsection 032.06.c., it shall be precluded from objecting to such charge as failing to comport with the applicable administrative rule. ~~(1-1-93)(4-1-06)T~~

**07. Provider Reply to Preliminary Objection and/or Request for Clarification.** (1-1-93)

**a.** Where a Payor has timely sent a Preliminary Objection, Request for Clarification, or both, the Provider shall send to the Payor a written Reply, if any it has, within thirty (30) calendar days of the Provider's receipt

of each Preliminary Objection and/or Request for Clarification. (1-1-93)

**b.** Failure of Provider to Reply to Preliminary Objection. If a Provider fails to timely reply to a Preliminary Objection, the Provider shall be deemed to have acquiesced in the Payor's objection. (1-1-93)

**c.** Failure of Provider to Reply to Request for Clarification. If a Provider fails to timely reply to a Request for Clarification, the period in which the Payor shall pay or issue a Final Objection shall not begin to run until such clarification is received. (1-1-93)

**08. Payor Shall Pay or Issue Final Objection.** The Payor shall pay the Provider's bill in whole or in part and/or shall send to the Provider a written Final Objection, if any it has, to all or part of the bill within thirty (30) calendar days of the Payor's receipt of the Reply. (1-1-93)

**09. Failure of Payor to Finally Object.** Where the Payor does not timely send a Final Objection to any charge or portion thereof to which it continues to have an objection, it shall be precluded from further objecting to such charge as unacceptable. (1-1-93)

**10. Investigation of Claim Compensability.** Where a Payor is investigating the compensability of a claim as to which a Provider has submitted a bill, the Payor must send a Notice of Investigation of Claim Compensability to the Provider and the Patient within fifteen (15) calendar days of receipt of the Provider's bill. The Payor shall complete its investigation of claim compensability and notify the Commission, the Provider and the Patient of its determination within thirty (30) calendar days of the date the Notice of Investigation of Claim Compensability is sent. Where a Payor does not timely notify the Commission, the Provider and the Patient of its determination, the Payor shall be precluded from objecting to such charge as failing to comport with the applicable administrative rule. (1-1-93)

**a.** Single Objection Sufficient. A single objection stating that liability has been denied shall be sufficient for each Provider from whom a bill is received. (1-1-93)

**b.** Effect of Commission Determination of Claim Compensability. The thirty (30) day period in which the Payor must pay the bill or send a Preliminary Objection and/or Request for Clarification shall recommence running on the date of entry of a final Commission order determining that the claim is compensable. (1-1-93)

**c.** Effect of Determination of Compensability. If the Payor, absent a Commission determination of claim compensability, concludes that it is liable for a claim, the thirty (30) day period in which the Payor must pay the bill or send a Preliminary Objection and/or Request for Clarification shall begin running on the date the Payor notifies the Commission, Provider and Patient that it accepts liability for the claim. (1-1-93)

**11. Dispute Resolution Process.** If, after completing the applicable steps set forth above, a Payor and Provider are unable to agree on the appropriate charge for any Medical Service, a Provider which has complied with the applicable requirements of this rule may move the Commission to resolve the dispute as provided in the Judicial Rule Re: Disputes Between Providers and Payors as Referenced in ~~IDAPA 17.02.08: Sections 031 and 032~~ of this rule (formerly 17.01.03.803.a. and 803.b.). (1-1-93)(4-1-06)T

~~**12. Requirements Regarding Disputes Arising Before the Effective Date of This Rule.** (1-1-93)~~

~~**a.** Written Demand Required. If, prior to January 1, 1993, a Payor notifies or has notified a Provider that it does not intend to fully pay any charge for Medical Services incurred prior to January 1, 1993, the Provider seeking payment for such charge must send a written Demand for Payment to the Payor no later than January 31, 1993. (Note: Should the matter ultimately proceed to the dispute resolution phase set forth in the Judicial Rule, the Commission will resolve the dispute by applying the administrative rule which was in effect at the time the charge was incurred. Hence, if the charge in dispute was incurred prior to June 1, 1992, the Commission will use this dispute resolution process to determine whether the Provider's charge is acceptable pursuant to the provisions of IDAPA 17.01.03.803, then in effect. However, if the charge in dispute was incurred on or after June 1, 1992, the Commission will use this dispute resolution process to determine whether the Provider's charge is acceptable pursuant to the provisions of IDAPA 17.02.08.031, now in effect.) (1-1-93)~~

~~**b.** All Provisions of this Rule Will Apply. Such a Demand shall substitute for the bill and Report referenced in Subsection 032.03 above, and must contain all the information required by that section. Service of a timely Demand for Payment will bring the other provisions of this rule into operation. (1-1-93)~~

~~**e.** Failure of Provider to Make Written Demand. Providers failing to make a written Demand for Payment within thirty (30) calendar days of the effective date of this rule shall be forever barred from invoking the Dispute Resolution Process set forth in the applicable Judicial Rule. Demands and/or billings submitted previously either to the Payor or to the Commission will not suffice. (1-1-93)~~

**IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY**

**58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO**

**DOCKET NO. 58-0101-0204**

**NOTICE OF VACATION OF RULEMAKING**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Department of Environmental Quality (DEQ) has vacated the rulemaking previously initiated under this docket number. The action is authorized by Sections 39-105 and 39-107, Idaho Code.

**DESCRIPTIVE SUMMARY:** The proposed rule was published in the Idaho Administrative Bulletin on September 4, 2002 and public hearings were held in October 2002. In November 2002 the Board of Environmental Quality (Board) considered the proposal and the information gathered during the public comment period and determined that more data was needed before a rule could be adopted.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning this vacation of rulemaking, contact Phyllis Heitman at [phyllis.heitman@deq.idaho.gov](mailto:phyllis.heitman@deq.idaho.gov) or (208)373-0256.

Dated this 26th day of January, 2006.

Paula J. Wilson  
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**IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY**

**58.01.11 - GROUND WATER QUALITY RULE**

**DOCKET NO. 58-0111-0501**

**NOTICE OF VACATION OF RULEMAKING**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Department of Environmental Quality (DEQ) has vacated the rulemaking previously initiated under this docket number. This action is authorized by Sections 39-105, 39-107, 39-120 and 39-126, Idaho Code.

**DESCRIPTIVE SUMMARY:** The proposed rule was published in the Idaho Administrative Bulletin on July 6, 2005. In October 2005 the Board of Environmental Quality (Board) considered the proposal, the information gathered during the public comment period, and issues of concern raised during the Board meeting. The Board tabled the docket and directed DEQ to undertake additional rule development steps to address the outstanding issues. DEQ intends to develop a ground water rulemaking committee in 2006.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning this vacation of rulemaking, contact Ed Hagan at [ed.hagan@deq.idaho.gov](mailto:ed.hagan@deq.idaho.gov) or (208)373-0356.

Dated this 26th day of January, 2006.

Paula J. Wilson  
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# LEGAL NOTICE

## Summary of Proposed Rulemakings

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### **PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES**

The following agencies of the state of Idaho have published the complete text and all related, pertinent information concerning their intent to change or make the following rules in the new issue of the state Administrative Bulletin.

**Because of the moratorium on proposed rulemaking during the legislative session, there are no proposed rules being promulgated or published in this month's Bulletin.**

Please refer to the Idaho Administrative Bulletin, **March 1, 2006, Volume 06-3** 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 the Administrative Rules Coordinator, 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 the Internet at the following address:  
**<http://www2.state.id.us/adm/adminrules/>**

**CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES**

**FOR THE ABOVE LINK TO WORK YOU HAVE  
TO BE CONNECTED TO THE INTERNET**

**This index tracks the history of all agency rulemakings from 1993 to the present.  
It includes all rulemaking activities on each chapter of rules  
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